

No. 1883

UNITED STATES CIRCUIT COURT OF APPEALS
FOR THE NINTH CIRCUIT.

TRANSCRIPT OF RECORD.

THE UNITED STATES OF AMERICA (Complainant),
Appellant,

vs.

THE BARBER LUMBER COMPANY (a Corporation),
(Defendant), Appellee.

VOLUME XII.

(Pages 4401 to 4800, Inclusive.)

Upon Appeal from the United States Circuit Court
for the District of Idaho, Central
Division.

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(Deposition of James T. Barber.)

Q. Now, Mr. Barber, there has been some evidence introduced here tending to show you sent out cruisers over the lands, Dennis Thornton and C. B. Conners, to cruise and estimate the land which you had purchased and even land which was not open to entry, and I understand that is the fact, is it not?

A. Yes, sir.

Q. Will you state for the benefit of these amateurs in the timber business, why this was done, and the practice among lumbermen?

A. When you are laying plans for the purpose of buying a large tract of timber in a section of country, it is necessary for you to know all about that timber before your opportunity to buy comes up. It is your business to know how much timber there is before it is offered to you, so you may take advantage of the price when it comes up, and it is very customary for lumbermen in this country to either inform themselves upon timber in their locality which may possibly come into the market, before it is offered for sale. I think there was—I think we gave general instructions to find out where timber was located on the north fork of the Boise River.

Q. What is the relation between the cost of a milling plant and the timber necessary to supply it?

A. Well, of course, that would vary under varying conditions, but as a general proposition if a milling plant would cost one hundred thousand dollars, it would be exceedingly poor policy to build it unless you had more than two hundred millions of timber tributary to it. Now, small operations in a remote

(Deposition of James T. Barber.)

country cannot possibly be profitable from the fact that everything connected with the operation of your plant from the cutting down of the tree and the log has been manufactured into lumber and sold, costs a great deal more in a small way than in a large way, and I would say as a general proposition that your mill property and investments should not exceed fifty cents a thousand feet, but now that is not always true because of its extreme remoteness you may be able to get possession of timber somewhere at a very low price, and what would ordinarily be the value of the timber can be put into the plant to outlast the remote and expensive timber.

Q. What amount of timber or stumpage did you deem it necessary to acquire in the building of the mill at Boise, Mr. Barber?

A. I thought that, after going over the ground and becoming satisfied that a large portion of the timber up in that country could not possibly be utilized except by the construction of a railroad, we were concluded that it would not be worth while to undertake and develop and make it a manufacturing plant until we had secured about six hundred billions of feet.

Q. In your opinion at that time the carrying charge and investment of a sawmill would require six hundred billion feet to make it a profitable transaction?

A. Yes, taking into consideration the construction of a railroad.

Q. Going back to your talk with Governor

(Deposition of James T. Barber.)

Steunenberg which led up to the making of this contract, I will ask you to state whether or not Governor Steunenberg represented that he had deeds or what manner of title he had of the lands they had already bought?

A. He stated that the entrymen covering filings of several thousand acres, I couldn't tell you how many; I think four or five; had made final payments and received land office receiver's final receipts and that these were the ones that Steunenberg and Sweet had purchased. There seemed to be a question whether it was proper to take a deed from any entryman until patent had issued, and that was the reason that he had no deeds to show for the purchases he had made was given by him as an excuse why the patents had not issued on the land that they had already purchased.

Q. What, if anything, did he say as to the payments, as to whether or not they had paid in full for their claims purchased?

A. He said that pending the issuing of these patents, he had held back, I think he said one hundred dollars a claim, some amount in each case until patent was issued and deeds furnished.

Examination adjourned to 1:30 P. M. of this day.

1:30 P. M. the above examination was continued as follows:

(By Mr. BUNDY.)

Q. Now, Mr. Barber, I show you from the same letter-press book copy-book, on page 676, a letter addressed to Mr. Palmer. Is that a letter written and

(Deposition of James T. Barber.)

signed by you and mailed to him on or about that date? A. Yes, sir.

By Mr. BUNDY.—We offer the letter in evidence. It is number 76, page 676, and reads:

“Eau Claire, Wisconsin, May 30, 1902.

A. E. Palmer,

Spokane, Washington.

Dear Sir: I have your telegram and note that scrip must be in small denominations forty to *eight* acres and think this increases difficulty in securing it. I know nothing about details of securing Government lands by using scrip. We have several large bunches, 5000 to 20,000 acres offered to us, but we understand these parcels have to be used in one entry, on one tract each. However, this may not be so. Mr. Moon will leave here about the middle of next week and will take along one estimator and compass man. He will write you when he determines the exact day of leaving.

Yours truly,

J. T. BARBER.”

Q. In the same book I show you copy of letter dated the next day. May 31st; is that a copy of a letter you wrote Mr. Palmer on that date?

A. Yes, sir.

By Mr. BUNDY.—We offer it in evidence. It reads:

“Eau Claire, May 31, 1902.

A. E. Palmer,

Spokane, Washington.

Dear Sir: In the matter of using forest reserve

(Deposition of James T. Barber.)

scrip in locating Government lands we are informed that the scrip in question may be placed on single forties in different sections and townships, the one condition being that if the scrip in question calls for three thousand acres more or less as the case may be, three thousand acres must be entered at one time. The question now before us is, are you prepared to take up three thousand acres of Government lands in the Boise Basin under the conditions stated above? Kindly let us know promptly."

By Mr. GORDON.—What page is that?

By Mr. BUNDY.—682.

Q. I show you letter on page 701, same letterpress book, is that a copy of a letter you wrote and mailed Mr. William Carson about that time?

A. Yes, sir.

By Mr. BUNDY.—That is offered in evidence and reads as follows:

"Eau Claire, June 4, 1902.

Mr. William Carson,
Burlington, Iowa.

Dear Sir: Mr. Moon will leave here tomorrow morning and St. Paul tomorrow night for Boise and that section of the country in the interest of our timber purchases. He takes along one first-class estimator and one compass man who is able to assist somewhat in looking timber. His post-office address will be S. G. Moon, care Idanha, Boise, Idaho, and he will expect to meet you there as soon as you can arrange your affairs to leave. In the meantime, if you hear of a good estimator, it would be well, I

(Deposition of James T. Barber.)

think to take him along, as it seems desirable to get possession of the land still belonging to the Government which bears timber in our section of the country as soon as possible, with the use of scrip.

Please let me know as soon as you have determined when you can go west on this business.

Yours truly,

J. T. BARBER."

Q. From the same letter-press copy-book I show you a copy of a telegram dated June 20th, 1902, page 760; is that a copy of a telegram sent by you on or about that date to Mr. Palmer?

A. Yes, sir.

By Mr. BUNDY.—We offer that in evidence. It reads as follows:

"Eau Claire, Wisconsin, June 20, 1902.

A. E. Palmer,

Spokane, Washington.

Can we handle five thousand Forest Reserve, at \$4.50?

Q. I show you a letter taken from the files of the Barber Lumber Company, marked 133; is that a letter you received from Governor Steunenberg at or about that date?

A. It is; yes, sir.

By Mr. BUNDY.—I offer that letter in evidence.

"Caldwell, Idaho, July 23, 1902.

Hon. J. T. Barber,

Eau Claire, Wisconsin.

My Dear Sir: Just returned from trip to Basin and found yours the 17th and 18th. I will give same

(Deposition of James T. Barber.)

consideration within a day or two as I am very busy just now with the details of the operation that requires immediate attention. I go to Boise this evening and in all probability you will hear from me there. Have word from Mr. Palmer that he will be there on the 25th, when I hope we will complete the scriping feature.

Yours very truly,

FRANK STEUNENBERG."

Q. I show you letter marked 930 taken from the files of the Barber Lumber Company and ask you if you received that letter from Mr. William Carson on or about the time of its date?

A. Yes, sir.

Q. Attached to that appears to be a telegram to Mr. Carson from the American Lumber Co. that was inclosed with Mr. Carson's letter?

A. Yes, sir.

By Mr. BUNDY.—We offer the letter in evidence and the attached telegram. The letter reads:

"July 31, 1902.

Mr. J. T. Barber,

Eau Claire, Wis.

Dear Sirs: Since writing you this morning advising you to wire Mr. Palmer to buy ten thousand acres of scrip, I have received your message informing me that Mr. Palmer has bought six thousand acres scrip at \$5.35.

Yours truly,

WILLIAM CARSON."

(Deposition of James T. Barber.)

Attached to that letter is a telegram which reads as follows:

“Portland, Oregon, 30th, 1902.

William Carson,

Burlington, Iowa.

Our price on ten thousand acre lots is \$5.40.

AMERICAN TIMBER COMPANY.”

Q. To what did that telegram refer, Mr. Barber?

A. It referred to lieu land scrip in ten thousand acre lots. The \$5.40 is \$5.40 per acre.

Q. I show you copy in the copy-book referred to at page 966, a telegram addressed to Palmer; was that a telegram sent by Palmer to you at or about that date? A. Yes, sir.

By Mr. BUNDY.—We offer it in evidence. It reads:

“Eau Claire, Wisconsin, August 11, 1902.

A. E. Palmer,

Spokane, Washington.

Will take five thousand at five thirty; ten thousand at twenty-five; otherwise will wait.”

Q. What was meant by taking five thousand at five thirty?

A. It means that we would authorize Mr. Palmer to purchase five thousand acres of lieu land scrip at \$5.30 an acre, or we would take ten thousand acres of the same thing at \$5.25 an acre.

By Mr. GORDON.—We enter an objection here to so much of this evidence as relates to the purchase and location of scrip and to negotiations relating to such purchase and location. Counsel for complain-

(Deposition of James T. Barber.)

ant object on the ground that it is immaterial and irrelevant to the issues in this case and we move to have it stricken out unless its materiality and relevancy are made to appear by later proof.

(By Mr. BUNDY.)

Q. I show you on page 970 of the letter-press copy-book referred to another letter addressed to Palmer and ask you if you wrote and mailed that letter on or about that time?

A. I did; yes, sir.

By Mr. BUNDY.—We offer it in evidence.

“Eau Claire, August 11, 1902.

Mr. A. E. Palmer,

Spokane, Washington.

Dear Sir: I am in receipt of a telegram from you dated yesterday which reads as follows: ‘boardman Scrip now ready. Shall I buy at best price?’ and I answered same as follows: ‘Will take five thousand at five thirty or ten thousand at twenty-five; otherwise will wait.’ For fear that you may not quite understand this I will explain by saying that it was my intention to say that we would purchase five thousand acres of scrip at \$5.30 or ten thousand acres at \$5.25. After the encouragement given by Mr. Phipps I do not feel like offering more than \$5.30 for this scrip until we have received some kind of word from him as to his ability to accommodate us. If it is possible for you to keep the Boardman people on the string for a week or ten days, this would probably be the best action.

Yours very truly,

J. T. BARBER.”

[Deposition of **S. G. Moon**, on Behalf of the Defendants.]

S. G. MOON, called as a witness, was first duly sworn to testify the truth, the whole truth and nothing but the truth relative to the above-entitled action, and thereupon testified as follows in answer to the following interrogatories put to him:

(By Mr. BUNDY.)

Q. Mr. Moon, you live in this city?

A. Yes, sir.

Q. What is your age?

A. Thirty-seven.

Q. What is your business?

A. I am in the lumber business.

Q. And you are one of the defendants in this action?

A. Yes, sir.

Q. Have you heard the evidence of Mr. Barber this morning relative to meeting Governor Steunenberg?

A. Yes, sir.

Q. I will ask you as to whether or not the preliminary correspondence between this end of the line and Mr. Palmer which resulted in Governor Steunenberg coming here and was carried on entirely through Mr. Barber, was it not?

A. Yes, sir.

Q. After Mr. Barber left here on March 12th, who conducted the negotiations from that time until his return?

A. I did.

Q. I neglected to ask Mr. Barber and you about George S. Long. You know him do you not?

A. Yes, sir.

(Deposition of S. G. Moon.)

Q. What relation did he have at any time to your company here, the North Western Lumber Company?

A. He worked for the Northwestern Lumber Company, I cannot remember the exact dates, but from about 1880, or soon after that until, I think, sometime in 1899.

Q. And in what capacity, Mr. Moon?

A. His office was manager of sales. He looked after the selling of all of our stock and all of our lumber and largely after the manufacture of it; that is, he directed as to how it should be cut to a large extent; the stock that the market required.

Q. Have you any objection to telling the salary that was paid to Mr. Long here, to tell what kind of a man he was?

A. I do not remember exactly; four or five thousand dollars; Mr. Barber may remember.

Q. And he stayed with you until he accepted a position with the Weyerhauser Lumber Company?

A. Yes, sir.

By Mr. BARBER.—He resigned his position with the North Western Lumber Company and went into the Prinleyham & Hirkson Co.

Q. Do you want to correct your evidence?

A. Yes, I remember he did go into Prinleyham & Hirkson Co. for a short time; but I don't know just how long, but until he took charge of the Weyerhauser timber forces.

Q. Now, Mr. Moon, do you know the defendant John Kinkaid?

(Deposition of S. G. Moon.)

A. I have met Mr. Kinkaid.

Q. Did you ever have any correspondence with him? A. No, sir.

Q. Did you ever have any business transactions with him? A. No, sir.

Q. Did you ever meet him at any time and any place in a business transaction? A. No, sir.

Q. Do you know John I. Wells, of Boise, Idaho?

A. I have met him.

Q. Casually or otherwise?

A. Casually; I think I never met him more than twice; the first time as I remember it was in the lobby of the hotel; met him with a number of other Idaho people.

Q. Did you ever have any business relations or transactions with him? A. No.

Q. Any correspondence with him in any way?

A. No.

Q. Ever buy any timber of him in Idaho or elsewhere from him? A. No.

Q. Do you know the defendant, L. M. Pritchard?

A. No, sir.

Q. Ever meet him? A. No, sir.

Q. Had you ever met Ex-Governor Steunenberg of Idaho prior to his arrival here in March, 1902?

A. No, sir.

Q. Did you ever have any personal relations or transactions with Mr. Rand with reference to timber deals in Idaho? A. No, sir.

Q. Or Mr. Long?

A. That was conducted by someone else; I don't

(Deposition of S. G. Moon.)

remember anything in detail about it.

Q. Now, Mr. Moon, do you remember that the night, the time that Mr. Barber left here for his vacation, in March, 1902, that Governor Steunenberg left the city at or about the same time?

A. Yes, I think the same night.

Q. Going west?

A. Going west, as I remember it, the same evening of the night that Mr. Barber left.

Q. Did you, following the making of that agreement with Mr. Steunenberg here, on March 12, did you write or cause to be written to A. E. Palmer a letter of instructions of the part he was to take?

A. Yes; when Mr. Barber left, he was not very well and was going south for a rest; said he wanted a short rest and wanted me to conduct and look after the business both with reference to these matters and others as far as possible, and asked me, as I remember it, to send the contract or copy of the contract to Mr. Palmer and write Mr. Palmer with reference to it. When I came to do it, it seemed like more of a job than I wanted to tackle alone, so I came down and asked Mr. Frawley, who drew the contract, to help me with a letter to Mr. Palmer, and I think he drew the letter for me.

Q. And you signed it?

A. I signed it and took it up to the office evidently, and got the contract and enclosed it with the contract and sent it to Mr. Palmer.

Q. I show you a letter-press copy-book, marked D. R. Moon E.; is that a book kept by your father

(Deposition of S. G. Moon.)

during his lifetime?

A. Yes, sir, that is a book that father wrote his letters in; business and personal; being letters instead of going in the general book, went into that book; also his personal letters; a large part of them.

Q. After his death did you continue to use that book for some of your correspondence?

A. Yes, sir.

Q. I show you letter at page 1172 of the D. R. Moon book and ask you whether or not that is a letter which you sent and mailed to A. E. Palmer giving him his instructions under this contract?

A. Yes, sir.

By Mr. BUNDY.—We offer that letter in evidence which reads as follows:

“Eau Claire, Wisconsin, March 13, 1902.

Mr. A. E. Palmer,

Spokane, Washington.

Dear Sir: Mr. J. T. Barber and myself have entered into a contract with Mr. Frank Steunenberg, a copy of which I herewith inclose, the most important features of which are as follows:

First. That Steunenberg represents to us that there are valuable tracts of timber lands on Moore's Creek and Grime's Creeks in Idaho.

Second. That Steunenberg and one Sweet have heretofore explored said lands and have perfected title to certain thereof and expended therefor large sums of money.

Third. That Sweet is willing to sell out his interest and will sell out the same and transfer all his

(Deposition of S. G. Moon.)

title therein to us for the amount of his investment and an additional fifty per cent thereof; that his investment amounts to about twenty-two thousand dollars, and we will pay him thirty-three thousand therefor.

Fourth. Steunenbergs represents that within six months from the date, he will obtain and perfect in us title to twenty-five thousand acres of land in this Basin with at least two hundred million feet of pine and fir timber thereon, of which at least eighty per cent is pine; that none of such lands will cost to exceed \$6.50 per acre, and the whole lot of twenty-five thousand acres will not cost to exceed one hundred forty thousand dollars.

There are other features in the contract, but these are the principal ones. Now, we are relying upon you to do the following things:

First: To satisfy yourself that there is timber of the kind and character represented situated upon the creeks in question in Boise Basin, and that the title to at least twenty-five thousand acres may be obtained and properly invested in us by an expenditure and cost not exceeding one hundred forty thousand dollars. Before anything is paid out to Sweet or any further move made, we want you to be satisfied that there are timber lands in the region as represented; that the title of these lands may be obtained by us from Steunenbergs to the extent of twenty-five thousand acres, and that the cost thereof will not exceed one hundred forty thousand dollars. We also want to be satisfied that if we purchase

(Deposition of S. G. Moon.)

these timber lands, they are so situated that the timber to be taken therefrom will be available for use.

After satisfying yourself that the representations of Steunenberg are true, we wish you to proceed to settle up with Sweet for us.

Second. Settlement with Sweet.

Steunenberg represents that Sweet has invested the following items: A. \$12,200.00; B. \$6,000.00; C. with S. \$7,500.00, one-half of which is \$3,750.00; making a total investment of \$21,950.00. These figures are not absolute, but Mr. Steunenberg says they are substantially correct.

You are to check these matters over and determine precisely the amount of money actually invested by Sweet, including the portion he has jointly invested with Steunenberg. Mr. Sweet is to turn over to you all his papers including estimates, notes, memoranda of every kind and nature relating to these lands and to this deal. He is to make proper deeds and conveyances of all lands to which he has acquired title or in which he has any interest, to us. If he should have any mortgage or other evidence of indebtedness or any contracts or liens upon any of these lands; all these are to be assigned and turned over to us. We are, however, not to assume any liability or obligation in or about any of his contracts, except that we will pay what is necessary to procure the title to any lands in us.

When you have thus checked over the account of Sweet and determined it to be correct and that his

(Deposition of S. G. Moon.)

investment does not exceed twenty-two thousand dollars, and that he has title in him of sixty-four hundred acres and has title practically perfected to substantially five thousand acres more, and when all matters we have enumerated are properly transferred from him to us, advise us of the amount required and we will send you a draft therefor or give Mr. Sweet or his correspondent credit in Chicago or Milwaukee by telegraph or otherwise for the amount.

The writer will send you a separate note as to manner of procuring funds at the time of checking up and adding the matter of investment of Sweet. You will also add the investment of Steunenberg and ascertain the amounts he has invested in this enterprise, on the same basis and in the same manner as passing on Sweet's account.

Third. Subsequent advances to Steunenberg. We agree to advance from time to time to Steunenberg for the purpose of procuring Government scrip with which lands in this territory are to be located in our names; the entire cost to us of this land shall in no case exceed \$6.50 an acre. The scrip, of course, will cost much less. It is to be obtained at the lowest price practicable. There will be expenses in selecting the lands upon which this scrip is located. These expenses will be proper items to be taken into consideration in determining the price of the lands. Certain of these lands may be purchased of private owners. These, of course, will be paid for; all of the titles, however, being vested in us and when the funds are necessary therefor or for any of these proposi-

(Deposition of S. G. Moon.)

tions, they will be procured and obtained from us in the manner outlined in my separate note to you of this date.

The general situation is that Governor Steunenberg comes to us with certain representations, making certain contract and arrangements with us, and while not releasing him from any of his responsibilities to us, we wish you to see that his representations are true, and that the moneys advanced and paid by us are properly expended for value received by us in the title of lands which you are satisfied are well timbered and are of kind and character represented, and that they will cost no more than heretofore set forth.

You will read the contract over carefully and observe that the title to the land to be vested in us must be good and perfect. You will see that the conveyances to us are in proper form. We, of course, to reimburse you for your services and to pay all necessary expenses by you incurred in looking after this business we entrust to you. We would not go into this business if it were not for the fact of your kindly offer to us in the premises and would abandon it now if we could not avail ourselves of your tact, discretion and good business judgment.

Yours very truly,

S. G. MOON."

Q. I show you a letter from the files of the Barber Lumber Company, marked number 37, and ask you if that is a letter you received from Mr. Palmer on or about that date? A. Yes.

(Deposition of S. G. Moon.)

By Mr. BUNDY.—The letter reads as follows:

“Spokane, Washington, March 26, 1902.

S. G. Moon, Esq.,

Eau Claire, Wis.

Dear John: Phoned Steunenbergs yesterday. There is no particular hurry so I will wait until day after to-morrow to leave for Boise. In the meantime I hope to get a cruiser from Mr. Deary. Please do your utmost about securing a good estimator.

Very truly,

A. E. PALMER.”

Q. Who is the Mr. Deary referred to in there, Mr. Moon?

A. Mr. Deary is a man whom I do not know. He was connected with Mr. Turrish first and finally the Weyhauser people in Idaho.

Q. Well, he is a man in the timber business?

A. Yes, sir. He is a man in the timber business. He has bought tracts of timber with Mr. Turrish there, both in northern and southern Idaho; I think in the Payette country.

Q. Was he employed by your company in any way?

A. No; I didn't know him.

Q. Ever have any business relations with him?

A. No.

Q. Got a cruiser from him so to get one he would recommend?

A. Yes, sir.

Q. I show you letter number 39; is that a letter you received about that time?

A. Yes, sir.

By Mr. BUNDY.—We offer 39 in evidence, as follows:

(Deposition of S. G. Moon.)

“Spokane, Washington, March 27, 1902.

S. G. Moon, Esq.,

Eau Claire, Wisconsin.

Dear John: Am leaving for Boise to-night and enclose a cipher code I might use in telegraphing you after returning from the timber.”

Q. This cipher code was never, in fact, used, was it?
A. No.

Q. I show you letter-press copy of letter on page 1197 of the D. R. Moon book and ask you if that is a copy of a telegram sent by you to Mr. Palmer on day shown?
A. It is.

By Mr. BUNDY.—We offer that in evidence. It reads:

“Eau Claire, Wisconsin, March 29, 1902.

A. E. Palmer,

Spokane Hotel, Spokane, Washington.

Estimator Dennie Thornton leaves here Tuesday. Will report to you at Spokane.

S. G. MOON.”

Q. Now, what was the object, Mr. Moon, of sending a cruiser out at that time before you had closed with Mr. Sweet?

A. It was in anticipation of closing with Sweet and to determine from our own men, if possible, before we—I don't remember whether we expected to get his reports before we closed or not, but in a general way, we wanted to get estimates on the timber in the basin.

Q. Was it not for the purpose of assisting Mr. Palmer and determining whether or not the represen-

(Deposition of S. G. Moon.)

tations of Steunenberg were true?

A. I think so. I am not positive, whether we waited for his report before closing with Sweet or not.

Q. He would report to Palmer, would he not?

A. Yes, to Palmer; he did report to Palmer.

Q. And Palmer was out there for the express purpose of finding out whether Steunenberg's representations were true and the estimator was sent out there to find out? A. Yes, sir.

Q. I show you a letter apparently of the same date, on page 1198 of the D. R. Moon copy-book; is that a copy of a letter you sent to A. E. Palmer?

A. Yes, sir.

By Mr. BUNDY.—(Reads letter.)

“A. E. Palmer,

Spokane, Washington.

Dear Al: I am sending you an estimator, Dennie Thornton. He will leave here Monday or Tuesday. Am wiring you to-day ‘Estimator Dennie Thornton leaves here Tuesday; report to you at Spokane.’ I told him to go to your hotel at Spokane and they would tell him where you were to be found. We agreed to pay him \$4.50 per day and his man \$2.50 or \$3.00. Am giving him \$150.00 to-day for expenses going out there for which he will account to you. He has not had a great deal of experience as an estimator but has worked in the woods a great deal and has done considerable estimating for us. He says he has estimated timber in Idaho, both white pine and yellow.

Yours truly,

S. G. MOON.”

(Deposition of S. G. Moon.)

Q. I show you a letter taken from the files of the company and ask you whether or not you received that letter from Palmer on or about its date?

A. Yes, sir.

By Mr. BUNDY.—Letter marked number 42 we offer in evidence. Written from Boise, Idaho.

“Boise, Idaho, March 30, 1902.

S. G. Moon, Esq.,

Eau Claire, Wis.

Dear John: Am going up into the timber to-morrow. Meet the Governor to-night. Capt. Henry and Turrish have been here. They are figuring on all the timber tributary to the Boise River and I think the Payette also. I crossed the Payette River to-day. It is a fine stream and from all I can learn that it will be a good one for you.

Very truly,

A. E. PALMER.”

Q. Who is Capt. Henry and Mr. Turrish?

A. Capt. Henry is a man who lives here and who is, I believe an old cruiser; has done that sort of work and he is interested in various timber propositions and a man I have known for a great many years. And Mr. Turrish is a man from this part of the country. He lives now in Duluth. He has grown up in the timber business.

Q. Letter 42 just shown you; Mr. Palmer refers to same deal, referring to the Payette River; is the Payette River land and the Boise Basin lands two distinct regions?

(Deposition of S. G. Moon.)

A. Yes, sir. And what he refers to is Payette lands and Boise lands.

Q. I now show you a letter taken from the files of the company and ask you (marked 44) is that a letter you received from Mr. Palmer at or about its date?

A. Yes, sir.

By Mr. BUNDY.—We offer it in evidence; it reads as follows:

“Boise, Idaho, April 20, 1902.

S. G. Moon,

Eau Claire, Wis.

Dear John: Returned last night from the timber. Drove for about three miles into some very nice timber. Am satisfied you could get about twenty thousand acres besides which there is some State and unsurveyed land which could be acquired later. Saw timber between Centerville and Placerville that will run eight thousand to the acre, fifty per cent yellow pine, thirty per cent bull pine, twenty per cent no good. Am pretty familiar with this class of timber as we cut considerable of it at our mill at Golden. The proposition is not practicable. Requires forty-five miles of a railroad before you reach the timber. This road would cost at least five hundred thousand dollars. Neither Grimes Creek nor Moores Creek are any use for any quantity over say one million.

The Governor will be here to-night when I will arrange with him to acquire the State land along the Payette if you want it. I will attend to the Government and other lands along the Payette myself.

(Deposition of S. G. Moon.)

We'll get an option on the Cobban tract at once, if not too late. Capt. Henry Turrish and others are looking into the Payette. Governor Scofield arrived here this morning. Will send a good man into the Payette at once. And if this does not meet with your approval let me know.

The country beyond Pioneerville slopes toward the Payette so that some of the timber Steunenberg had in mind may come in yet. Will keep Steunenberg in good humor as he will be valuable in acquiring State lands.

Inclosed is a State map which will show you where I was; also the Payette River.

Yours truly,

A. E. PALMER."

Q. What was meant in that letter by saying these creeks were not of any use for any quantity over one million feet?

A. I took it that he meant that not to exceed one million feet per annum could be driven out of either of the creeks; that is during the time that the water, that there was a sufficient quantity of water in the streams to drive logs, there could only be that quantity of logs driven out.

Q. Where is this Cobban tract, if you know?

A. The Cobban tract is along the Payette River. It seems that a man by the name of Cobban and Casey, if I remember correctly, had bought a lot of timber and stone entries along the Payette River and had them for sale and were offering them at that time.

(Deposition of S. G. Moon.)

Q. Do you know how many acres were in the Cobban tract?

A. No; we did know and had the estimates.

Q. The Cobban tract had no reference to lands in the Boise Basin? A. No.

Q. But was another proposition that Palmer had found for you?

A. Yes, sir; along the Payette River.

Q. I now show you a letter from the files of the company marked 45, and ask you if that is a letter you received from Mr. Palmer at or about its date?

A. Yes, sir.

By Mr. BUNDY.—We offer this letter in evidence which reads as follows:

“Spokane, Washington, April 3, 1902.

S. G. Moon,

Eau Claire, Wis.

Dear John: I have your letter and telegram of the 29th; also telegram of this date to which I replied, ‘Shall I close and send Thornton to estimate?’ You need not be alarmed. I will not put you to any expense on the Payette without your consent. There is no doubt considerable good timber in the Boise Basin and during the high water several millions might be driven. You will see high water when you come out in May and can then size up the situation as everything about the proposition is easily seen. What lands I saw will easily go eight thousand to the acre. Steunenberg thinks the stream can be driven in large quantities from junction of creeks. Steunenberg tells me Capt. Henry is after the Payette

(Deposition of S. G. Moon.)

State lands. Would like to send a man up there. My object in wanting an option on the Cobban timber is to have it tied up while you secure the State lands. Steunenbergl claims he can get it. Wire me if I shall have the Governor sign the contract and proceed to close up the deal?

Very truly,

A. E. PALMER."

Q. I show you a telegram taken from the files of the company and ask you if you received that letter at or about its date, April 3-4, number 46?

A. Yes, sir.

By Mr. BUNDY.—We offer that in evidence.

"Spokane, Washington, April 3-4th.

"S. G. Moon,

Eau Claire, Wisconsin.

Shall I close and send Thornton to estimate."

Q. I now show you copy found in letter-press copy-book of D. R. Moon referred to, on page 1209, and ask you if that is a copy of message you sent to Mr. Palmer on April 3, 1902?

A. Yes, sir.

By Mr. BUNDY.—I offer that in evidence.

"Eau Claire, April 3, 1902.

A. E. Palmer,

Boise, Idaho.

If telegram refers to Payette go slow.

If other proposition am inclined to go ahead.

S. G. MOON."

Q. I show you copy of letter on page 1210 of D. R. Moon copy-book and ask you if that is a copy of a

(Deposition of S. G. Moon.)

letter you wrote Mr. Palmer on that date?

A. Yes, sir.

By Mr. BUNDY.—We offer that in evidence.

“Eau Claire, April 3, 1902.

A. E. Palmer,

Idaha-ha, Boise.

Dear Al: I have yours of the 30th; also your wire of yesterday is received. ‘If telegram refers to Payette, go slow; if other proposition, am inclined to go ahead.’ I got a reply from Boise this morning that it could not deliver the message; that you had returned to Spokane. I am inclined to think that if the timber is there in the Boise Basin of the quality and quantity represented, that we would prefer that proposition to the Payette. If you cannot see any better way to get at the Payette proposition, you might get the best option possible from the Cobban-Casey people. I am inclined to think that when Mr. Barber goes out in about three or four weeks, Mr. Carson and perhaps others will go with him and they will be looking for some good lay out.

Yours truly,

S. G. MOON.”

Q. I now show you telegram or letter; a copy of a telegram found in the files, dated April 4, marked number 47; is that in your handwriting?

A. Yes, sir.

Q. That seems to have been copies instead of being put in the book?

A. It is not in the book.

(Deposition of S. G. Moon.)

Q. That is a copy of a message that you wired at that time? A. Yes, sir.

By Mr. BUNDY.—We offer 47 in evidence.

“April 4, 1902.

A. E. Palmer,

Spokane Hotel, Spokane, Washington.

Yes; if everything seems square.

S. G. MOON.”

Q. Now, Mr. Moon, was that telegram in answer to a telegram which you received during the night of the 3d and 4th which has been offered in evidence as 46, and in which Mr. Palmer said, “Shall I close and send Thornton to estimate”?

A. Yes, sir.

Q. And your answer was, “Yes, if everything seems square”? A. Yes, sir.

Q. I now show you a letter taken from the files of the company marked number 50 and ask you if that is a letter you received from Palmer at or about its date? A. Yes, sir.

By Mr. BUNDY.—We offer that in evidence.

“Spokane, Washington, April 4, 1902.

S. G. Moon, Esq.,

Eau Claire, Wis.

Dear John: Your wire of even date received. Have phoned Governor I would be there on the 6th or 7th to close with him. Thornton leaves this P. M. he will follow Moores Creek from the Boise river to the junction of the two creeks, about fourteen miles. You know Thornton has been in that district before. He thinks the creek can be driven from

(Deposition of S. G. Moon.)

junction to Boise river. The only title so far acquired to this timber is the receiver's receipts and unless the government should find cause to refuse patents, the patents should come in due time. In dealing I must take it for granted that patents will be issued. It looks as though the Cameron Lumber Company deal would go through.

I inclose copy of an act re Franchises to Improve Rivers in Idaho.

Yours very truly,

A. E. PALMER."

Q. I now show you a letter taken from the files of the company number 52, and ask you if that is a letter you received from Mr. Palmer at or about its date? A. Yes, sir.

By Mr. BUNDY.—We offer 52 in evidence, which reads as follows:

"Spokane, Washington, April 5, 1902.

S. G. Moon, Esq.,

Eau Claire, Wisconsin.

Dear John: Am going to Boise today to close with Steunenberg. You understand the only title you get pending patent is a receiver's receipt, and these receipts are in the names of a great many people. Personally, I am satisfied everything will come out as the Governor expects. Think it is his intention to scrip the balance of the land. This plan may cost more but is safer.

Very truly,

A. E. PALMER."

(Deposition of S. G. Moon.)

Q. Now, Mr. Moon, I show you telegram taken from the files of the company, marked 53, dated 7th of April, and ask you if that is a telegram you received from Mr. Palmer on or about that date?

A. Yes, sir.

By Mr. BUNDY.—We offer that, 53, in evidence which reads as follows:

“Boise, Idaho, April 7, 1902.

S. G. Moon,

Eau Claire, Wisconsin.

Am ready to close on sixteen thousand acres provided you understand there are no titles until patents are issued. Answer here.

A. E. PALMER.”

Q. Now, Mr. Moon, it seems you had been advised by two or three telegrams and letters from Mr. Palmer that the only titles you were getting were receiver's receipts, and that he was ready to close on a large number of acres provided you understood that all the title you were getting were receiver's receipts; now, I will ask you what title you understood you were getting in your talk with Governor Steunenberg?

A. We understood we were getting a title based upon receiver's receipts; final receiver's receipts, but, as I remember it, we didn't expect that we would get deeds until after patent had issued.

Q. So that the information that Mr. Palmer was giving you was nothing new to you as to the receiver's receipts?

A. No; that was the title we expected to get.

(Deposition of S. G. Moon.)

Steunenberg was expected to hold these receipts in his possession and he so told us; and if I remember. Mr. Frawley advised us that that was perfectly safe; if Mr. Steunenberg got these receipts and held them until patents were issued, he could undoubtedly get the land.

Q. Now, after you had had these various telegrams and were called upon to decide definitely as to whether to close the deal on this information, that the only title you had was based upon receiver's receipts, who, if anyone, did you consult?

A. Why, I consulted Mr. Frawley again. He had advised us with reference to receiver's receipts and I naturally consulted him to find out if it was all right.

Q. I will ask you, if at *you* request, again directed Mr. Palmer as to what to do in the premises; did Mr. Frawley write Mr. Palmer at your request?

A. He did.

Q. And wire him to the same effect?

A. Yes.

Q. I now show you a letter taken from the files of the Barber Lumber Company, 296, signed T. F. Frawley, April 7, 1902, and ask you as to whether or not you received that letter relative to the decisions on that date? A. Yes, sir.

Q. Was there attached to it the copies that are now attached? A. Yes.

By Mr. BUNDY.—We offer that in evidence, and the papers attached.

By Mr. KEIGWIN.—We object to the letter and

(Deposition of S. G. Moon.)

accompanying copy on the ground that they are immaterial and irrelevant to the issues in this case.

By Mr. BUNDY.—Letter of Mr. Frawley reads as follows:

“Eau Claire, Wisconsin, April 7, 1902.

S. G. Moon,

Eau Claire, Wis.

Dear Sir: Inclosed please find copy of letter and message by me this day written and sent to A. E. Palmer at Boise City, Idaho.

Yours truly,

T. F. FRAWLEY.”

Attached to the letter is the following letter:

“Eau Claire, Wisconsin, April 7, 1902.

A. E. Palmer, Boise, Idaho.

Dear Sir: Mr. S. G. Moon in reply to your telegram of this date wired you this afternoon as follows: ‘A. E. Palmer, Boise, Idaho. I understand that titles have been perfected in a legal way to certain lands in certain parties, final proofs made and approved by local officials United States Land Office; final receipts issued or will issue upon payment of certain sums to Government, and nothing remains to be done but patents to issue; that these parties have legal right to sell and we to buy; patents will issue to us in order to perfect our title in this land; we to pay Sweet the amount to which he is entitled and other actual investments necessary to perfect title to land to be vested in us. Our contract and letter of instructions defines our rights and under-

(Deposition of S. G. Moon.)

standing. If in doubt await letter from Mr. Frawley.

S. G. MOON.'

In addition I will say that Mr. Steunenberg represents that final proofs have been made in about sixty-four hundred acres and final receipts issued therefor, and that final proofs were about ready in from forty-six hundred to five thousand acres in addition thereto, and that final receipts would be issued therefor. Now, we do not quite understand where the sixteen thousand acres comes in unless it is for government scrip. It was the understanding that when the matters were in the conditions stated that Mr. Moon and Mr. Barber would buy out Mr. Sweet and pay him the amount to which he was entitled to under the contract, but at the time of payment the title to all the lands upon which final proofs were made and final receipts issued, should be vested in Mr. Barber and Mr. Moon. Nothing must be left to depend upon any action of Sweet or any of the parties there, but these lands are obtained after Sweet is paid and these parties get their money. This is especially so concerning sixty-four hundred acres of land. Of course, if money be necessary to pay any fees of the government or other necessary expenses for us to pay out in the way of purchase price of these lands, when the title is perfected, the parties here are ready to advance the money. You understand that Mr. Barber and Mr. Moon are ready to pay the money precisely according to their understanding of the contract, but if the situation be such

(Deposition of S. G. Moon.)

that they cannot get title to these lands as the money is advanced, they do not wish to obtain lands, except under government scrip. I think you understand the situation precisely, but parties here would rather not go into the deal out there unless they can get title to the lands precisely in the manner outlined and defined in the contract. If there still be any doubt in your mind as to the course to pursue, either wire the situation at length or wait letter. It is better that the deal shall fall through rather than any money be invested in an uncertainty, but if things be certain and sure to the extent indicated in this letter and telegram and in the contract, then the parties are anxious to make this investment.

Yours truly,"

Q. Now, Mr. Moon, was that the final instructions you gave to Mr. Palmer relative to closing that deal?

A. Yes, sir, as far as I remember it.

Q. And that letter was prepared by Mr. Frawley at your request?

A. Yes, sir.

Q. And sent by your authority and under your direction?

A. As I remember it I came and talked to him and he outlined what he advised me to write and then suggested that he write it himself here.

Q. I show you a telegram taken from the files of the company sent by Mr. Palmer and marked number 56, is that the next telegram received in its order as you remember it from Mr. Palmer?

A. Yes, sir.

(Deposition of S. G. Moon.)

By Mr. BUNDY.—We offer that in evidence. It reads as follows:

“Boise, Idaho, April 11, 1902.

S. G. Moon, Eau Claire, Wisconsin.

Deal closed. Statement and draft forty thousand Spokane Saturday. Sweet's thirty-three thousand held by Steunenbergs six months as guarantee to titles.

A. E. PALMER.”

Q. I now show you a check and ask you if you know the handwriting of that check?

A. Yes, sir.

Q. Written by Mr. A. E. Palmer?

A. Yes, sir.

Q. And dated April 10th?

A. Yes, that is Mr. Palmer's writing and signature.

Q. I show you another check; the one first shown you is for \$32,925.00; I show you another check dated April 10, 1902, A. E. Palmer to Frank Steunenbergs, \$5,800.00; is that Mr. Palmer's writing?

A. That is Mr. Palmer's signature and writing.

Q. I show you another check, dated April 11, 1902, for \$1,200.00; that is also Mr. Palmer's handwriting and signature? A. Yes, sir.

By Mr. BUNDY.—We offer check referred to by witness for \$32,925.00, drawn by A. E. Palmer on Exchange National Bank, Spokane, Washington, payable to the order of William Sweet, endorsed on the back “Pay to the order of Frank Steunenbergs” signed, “William Sweet by J. H. Richards, his at-

(Deposition of S. G. Moon.)

torney in fact; also, endorsed by Frank Steunenberg on the Bank of Commerce, Idaho; I offer the other check, \$5,800.00 referred to by witness, payable to the order of Frank Steunenberg, signed, "A. E. Palmer" drawn on the same bank, and endorsed by Frank Steunenberg to the Commercial Bank of Caldwell, Idaho; I also offer the third check referred to by witness, for \$1,200.00, drawn by A. E. Palmer to the order of Frank Steunenberg on the same bank, endorsed by Frank Steunenberg and Bank of Commerce, Boise, Idaho.

Q. Now, Mr. Moon, the sum total of these checks which were drawn on the 10th and 11th days of April, 1902, by Palmer on his own personal account at Spokane, was reimbursed to him by a draft of forty thousand dollars or about that, drawn on you on that date, was it not as shown by that letter?

A. Yes, sir.

Q. Will you kindly look at the account of A. E. Palmer on page two of the ledger of the Barber Lumber Company, which contains two charges, one dated April 17, Cash \$38,763.75, and under the same date, Cash \$1,201.20; referring to page one of the journal showing a payment of drafts of this amount, on April 17, does it not?

A. Yes, sir.

Q. Is that the first money advanced by the Barber Lumber Company or by S. G. Moon or J. T. Barber or anyone else for the purchase of lands in Idaho?

A. Yes, sir.

Q. And the charges to Mr. Palmer on April 17, on the books of the Barber Lumber Company was

(Deposition of S. G. Moon.)

for a draft to cover the three checks offered in evidence, with exchange on the draft; that is correct, is it not? A. Yes, sir.

Q. I show you a letter taken from the files of the company, and ask you if that is a letter you received from Mr. Palmer at or about its date?

A. Yes, sir.

By Mr. BUNDY.—I offer 561½ in evidence, being the number attached to the letter just referred to.

“Spokane, Washington, April 14, 1902.

S. G. Moon,

Eau Claire, Wis.

Dear John: I made draft on you today for \$38763.75 which is per my letter of the 12th inst; \$38725.00 and exchange \$38.75. The above was in payment of business already transacted before closing with Steunenbergh. I also made draft on you for \$1201.20 in payment of three entries made at the land office in Boise on Saturday, \$1200.00; exchange on draft \$1.20. Gave Steunenbergh my check for the above \$1200.00 and expect to be advised today or tomorrow of the proper entries for same, that is, names of locators and land office receipt numbers which information I shall forward to you. Wish you would have somebody check over written list of descriptions sent you with them. They do not have their records in very complete shape and I would not be surprised if there were a few discrepancies in the descriptions, but they can be easily corrected. I am keeping a record here of all this land, money paid on same, etc. Suppose you understand it is necessary for Steunen-

(Deposition of S. G. Moon.)

berg to have possession of all the land office receipts in case called upon to produce one at any time. Will send you a tracing of that district following the road, river and creeks from Boise to timber. This tracing is correct.

Very truly,

A. E. PALMER."

Q. Mr. Moon, at any time up to the point where we have now reached in this examination, had you heard from any source of the issuing of what is known as temporary receipts at the land office in Boise? A. No, sir.

Q. When did you first learn of the fact that in the original Basin entries temporary receipts were issued at the time of making final proof?

A. I never heard that until after this action was started; you told me.

Q. And did you ever know it until my return from the Borah trial? A. Never.

Q. In any way, from Mr. Steunenberg, Palmer or any other source, were you advised or told up to the time we have reached now, April 10, 1902, that the receipts which had been issued were not final receipts authorizing the issue of patents?

A. No, sir.

Q. I now show you a telegram taken from the files of the company marked number 65; is that a telegram you received from Mr. Palmer at or about its date? A. Yes, sir.

By Mr. BUNDY.—We offer that telegram in evidence. It reads:

(Deposition of S. G. Moon.)

“Spokane, Washington, May 1st, 1902.

S. G. Moon, Eau Claire, Wis.

Steunenbergs contract mailed you April 12th separate from letter. Will have another sent at once.

A. E. PALMER.”

Q. Does that refreshen your recollection with regard to the loss of the original contract?

A. Yes; he wrote me as I remember it, advising me that he was inclosing the contract and when the letter came the contract was not with it and I looked for the contract for a time, expected its arrival, as I remember it, and it didn't come, and I advised him that the contract had not been received.

Q. When was the contract which you and Mr. Moon made with Governor Steunenbergs signed up and agreed to and become operative?

A. It was finally signed, as I remember it, Mr. Barber and I executed the contract before Mr. Barber left here; that was on the 12th day of March; and I think Steunenbergs signed it some few weeks later.

Q. What I am getting at, Mr. Moon, was it signed and had it become operative before the payment of these checks by Mr. Palmer to Mr. Steunenbergs?

A. Yes, I presume so; that was our instructions.

Q. You don't understand; when you authorized Palmer to go out there and if he found these representations true to close with Sweet's interest.

A. Yes.

Q. And Sweet was paid on the 10th day of April, 1902; was that the date upon which Governor Steu-

(Deposition of S. G. Moon.)

nenberg signed the contract and it became operative?

A. I presume it is.

Q. And the contract which has been introduced in evidence here was depending upon the conduct of Steunenberg? A. Yes, sir.

Q. Now, I show you a document here; I don't know what to call it; executed, purported to be executed by William Sweet; purporting to have been acknowledged by William Sweet on the 31st day of March, 1902; I will ask you as to whether or not you had any personal relations with Mr. Sweet in buying him out or whether it was all done through Governor Steunenberg?

A. It was all done through Governor Steunen-berg.

Q. And is this document I show you a contract of Sweet's interest delivered to you by Steunenberg?

A. Yes, sir.

Q. Is that the only assignment you had?

A. Yes, sir.

By Mr. BUNDY.—We offer that in evidence.

Q. This assignment of Sweet's was delivered to Mr. Palmer at the time he made the statement and delivered to you afterwards?

A. That is as I understand it.

By Mr. BUNDY.—We offer this in evidence. It reads as follows:

THIS INDENTURE, Made and entered into this 28th day of March, A. D. 1902, between William Sweet, an unmarried man, of Boise, Idaho, party of the first part, and James T. Barber and S. G. Moon,

(Deposition of S. G. Moon.)

of the City of Eau Claire, Wisconsin, parties of the second part:

Witnesseth, That Whereas, There are situate along and adjacent to Grimes Creek and *Mores'* Creek in what is known as Boise Basin, in the Southern part of Boise County, State of Idaho, many thousands of acres of timber lands upon which is standing and growing, pine and fir timber which will average at least ten thousand feet of board measure to the acre, eight thousand feet of which is pine;

That said lands are so situate that the said timber thereon may be practically handled and with great *preat* profit, in logging and manufacturing the same into lumber, and that the title to said lands may be acquired, by proper entries and proceedings in the Boise City, Idaho land office;

That heretofore the party of the first part and Frank Steunenberg, of Idaho, entered into and are now engaged in the enterprise and venture of exploring said lands and obtaining title thereto, and many entries of such lands have been made by divers and sundry parties, and first party and said Frank Steunenberg have invested and expended a large sum of money therein;

The amount so advanced by first party herein individually and upon his own account in furthering such enterprise is substantially Twenty Two Thousand Dollars:

That said first party and said Frank Steunenberg are willing and desirous that said first party herein

(Deposition of S. G. Moon.)

should assign and transfer all his right, title and interest in and to the enterprise aforesaid, and in and to the lands and the titles thereto, so by him acquired therein, to parties of the second part for the amount by him actually invested therein up to and including March 15th 1902, together with a profit thereon of fifty (50%) per cent of the amount of such investment, the price and amount of such investment and advance so made by said Sweet, shall not exceed said sum of Twenty Two Thousand (\$22,000.00) Dollars, and shall be vouched for, determined and audited by A. E. Palmer of Spokane, State of Washington.

Now Therefore, For and in consideration of the premises and in consideration of said sum of Thirty Three Thousand (\$33,000.00) Dollars, or such less sum and amount as shall be determined, by said Palmer, as having been paid out by first party herein, together with fifty per cent hereof added thereto as herein stated, the party of the first part does hereby grant, bargain, sell, convey, remise, release and quit-claim unto said parties of the second part and to their heirs and assigns forever, all his right, title, interest, claim and demand in and to the enterprise and undertaking aforesaid, and in and to such lands and the title thereto, so by him, or in any manner by him acquired, held, owned or claimed, and full satisfaction and payment thereof shall be and is hereby acknowledged by and at the delivery and execution hereof.

To have and to hold all the above described prem-

(Deposition of S. G. Moon.)

ises, rights, interests, claims and demands, together with the appurtenances and privileges thereunto incident.

In Witness Whereof the party of the first part has hereunto set his hand and seal the day and year first above written.

WILLIAM SWEET. (Seal)

Witness:

JOSEPH B. BRAMAN.

State of New York,
County of New York,
City of New York,—ss.

On this 31st day of March, A. D. 1902, before me, Joseph B. Braman, a Commissioner of Deeds for the State of Idaho, in and for the State of New York and in and for said County of New York, personally appeared William Sweet, who is personally known to me to be the person whose name is subscribed to the within instrument, and acknowledged to me that he executed the same, on this 31st day of March, A. D. 1902.

In Witness Whereof, I have hereunto set my hand and affixed my official seal this 31st day of March, A. D. 1902.

(Seal)

JOSEPH B. BRAMAN,

Commissioner of Deeds for the State of Idaho, in
and for the State of New York, resident in said
City of New York.

Offices Equitable Building, 120 Broadway, Branch
and evenings 1274 Broadway, (Telephone Con-
nection) New York City.

(Deposition of S. G. Moon.)

Q. Now, Mr. Moon, up to April 10th, when that deal had been closed, had the Barber Lumber Company been organized? A. No, sir.

Q. It was not organized until sometime later in 1902, I think we will show. Up to that time had you or Mr. Barber or anyone else connected with your Company, paid out any money at all to any person for a tract of timber land in the State of Idaho?

A. No, sir.

Q. Up to that time had you or Mr. Barber personally or the Company you were interested in bought or did you then own any lands or interest in any lands in the State of Idaho?

A. No, sir, except an option, but we didn't pay anything for that option.

Q. That was on other lands?

A. That was on other lands, but in Idaho.

Q. So that the first investment you made was when Mr. Palmer acting for you, on the 10th day of April, 1902, made the checks to which your attention has been called and for which you reimbursed him by draft on April 17, 1902?

A. That was the first.

Q. Now, up to that time had you been to the State of Idaho? A. No, sir.

Q. And had Mr. Barber been there?

A. No, sir.

Q. I now desire to offer a few more letters relative to the location and procuring of scrip in the Boise Basin and otherwise, at that time; I show you a letter, Mr. Moon, or copy of a letter, page 1206 of

(Deposition of S. G. Moon.)

the D. R. Moon letter-book; is that a copy of a letter you wrote and mailed to Mr. Palmer at that time?

A. Yes, sir.

By Mr. BUNDY.—I offer this letter in evidence.

“Eau Claire, Wis., April 2, 1902.

A. E. Palmer,

Spokane, Washington.

Dear Albert: I have your favors of the 26th and 27th along with deed. I met Capt. Henry to-day on the street and got to talking about Idaho. He does not know we are interested in Boise Basin so talked pretty freely. He practically told me that he and his crowd together with Scofield expected to get control of timber in Boise Basin, so I should say that Steunenberg should not waste any more time than is necessary in getting ready to locate scrip. I do not think the Scofield crowd have done anything yet, except that they are pushing the state to complete their title to lands in Boise Basin, and I think they are trying to obtain private rights on the river. Steunenberg must be careful not to let them get ahead of him in any way. I expect Thornton will reach you before you get this. I did not find any one else who can go out for a few weeks, but about May first expect to have some good man. I judge from what Capt. Henry says that the Boise Basin proposition a very good one.

Yours,

S. G. MOON.”

Q: I show you a letter taken from the files of the Company marked 51 and ask if you received that

(Deposition of S. G. Moon.)

letter from Mr. Palmer at or about its date?

A. Yes.

By Mr. BUNDY.—We offer that letter in evidence.

“Spokane, Washington, April 5, 1902.

S. G. Moon, Esq.,

Eau Claire, Wis.

Dear John: Your letter of the second received. I note what you say re Capt. Henry. Mr. Deary of the Northland Pine Company told me he had estimates on all the State lands along the Payette and that he would be there to bid on it. He also said that Capt. Henry and Turrish would bid, and the Cobban crowd would bid. Was offered three thousand acres Forest Reserve scrip today at six dollars. My impression was it could be bought for \$5.50. Will take the question up with the Governor.

Very truly,

A. E. PALMER.”

Q. I show you a letter taken from the files of the Company marked 73; is that a letter you received from Mr. Palmer on or about its date?

A. Yes, sir.

By Mr. BUNDY.—I offer that letter in evidence. The last paragraph of it reads as follows:

“Spokane, Washington, May 13, 1902.

S. G. Moon, Esq.,

Eau Claire, Wisconsin.

Dear John: Wish you would learn what Forest Reserve Lieu Lands Scrip can be bought for. I cannot learn of any under \$5.50 and that in small

(Deposition of S. G. Moon.)

quantities. At the same time others say it can be had at \$5.25, but I cannot find out. You will see there is a possibility of my paying twenty-five cents or fifty cents an acre more than you might buy it for.

John Hunner claims to have an option on twenty or thirty millions of white pine on Orofino Creek."

Q. I show you a telegram taken from the files of the Company marked number 85; is that a telegram you received from Mr. Palmer on or about its date?

A. Yes, sir.

By Mr. BUNDY.—We offer that in evidence.

"Spokane, Washington, June 25, 1902.

S. G. Moon,

Care Conductor Train No. 1,

Glenwood, Wisconsin.

Bought five thousand at five fifty. Can get five more same price.

A. E. PALMER."

Q. Do you know what that telegram refers to, Mr. Moon?

A. It refers to scrip and indicated that he had bought that five thousand acres at \$5.50 an acre.

Q. And could get more at the same price?

A. Yes, sir.

By Mr. BUNDY.—I read balance of letter 73, dated May 13, 1902:

"Mr. Barber's wire of yesterday and your wire of today received. Will be in Boise on the 16th, address, Idah-ha Hotel. Will likely go directly to timber. There is a lot of fine timber in towns six

(Deposition of S. G. Moon.)

and seven, range four east which I think can be located by scrip: that is why I wired asking when you could come west. If the patents should come soon this land should be taken at once, and it might be more satisfactory if you or Mr. Barber visited the Basin before we laid any scrip. Still I shall proceed with the idea you will take all the good timber you can acquire in the Basin."

Q. I show you letter marked number 91, taken from the files of the Company and which appears to be a copy of a letter written from Washington, D. C., to Mr. Waldo Murphy, Spokane, at the bottom of which is a letter from Mr. Palmer, is it not?

A. Yes, sir.

Q. Did you receive this letter addressed to Mr. Murphy with Mr. Palmer's notation on it, on or about its date? A. Yes, sir.

By Mr. BUNDY.—We offer this in evidence, this letter of Mr. Palmer's.

By Mr. GORDON.—We object to the copy inclosed upon the ground that it is incompetent, irrelevant and immaterial.

By Mr. BUNDY.—Upon the letter is "S. G. Moon. The above is a copy of a letter re \$4.50 scrip. Think original was from Washington, D. C. A. E. Palmer."

Q. That portion of the letter I have read is in the handwriting of Mr. Palmer? A. Yes, sir.

Q. And is addressed to you? A. Yes, sir.

Q. The portion of the letter on the same paper above what Mr. Palmer has written and about which he referred is the following:

(Deposition of S. G. Moon.)

“Washington, D. C. June 25, 1902.

Mr. T. Waldo Murphy,
Spokane, Washington.

Dear Sir: Your telegram saying that you can handle the entire seventy-five thousand acres is just at hand this morning. I will say that I am negotiating for this seventy-five thousand acres, but there is a feature of it I should have written you on in my first letter which was accidentally omitted therefrom.”

(The letter relates to the prices of scrip in large amounts running from \$2.50 to \$4.50 an acre.)

By Mr. GORDON.—The copy of the letter is not signed?

By Mr. BUNDY.—No, not signed.

Q. Now, Mr. Moon, I show you letter-press copy of letter in D. R. Moon book, on page 1285, and ask you if that is a copy of the letter wrote Mr. Palmer on or about the date shown? A. Yes, sir.

By Mr. BUNDY.—I offer this letter in evidence, which reads:

“June 28, 1902.

Mr. A. E. Palmer,
Spokane, Washington.

Dear Al: I have your letters with inclosures and advice of two drafts of \$5005.00 each and one for \$963.55. One of the ones for \$5005.00 has already been paid and the others will be paid when presented. I also have your wire about the five thousand acres of scrip which you bought. The wire came while I was at Gile attending our meeting there. Mr. Barber has a letter from his man offer-

(Deposition of S. G. Moon.)

ing ten thousand acres of scrip at \$4.50. He also states that he has a block of two thousand acres for which he wants \$5.80. He goes on to say in answer to Mr. Barber's letter that the \$4.50 scrip is first class timber reserve land scrip based on bounty claims and in every way the same as that selling for \$5.80, except that it cannot be delivered inside of five or six weeks. We have ordered the ten thousand acres. We are still a bit doubtful over it, but you had better not put in your order for a second five thousand mentioned in your wire until we learn more about this. I inclose herewith a letter from James Hambly. It is in answer to one I wrote to him. He is the man who located the Cobban-Casey timber and I wish you would find out what you can about his reliability and if he seems to be O. K. let him go on with the work Conners is doing and send Conners home to us as I find that we need him badly here.

Q. I show you telegram from files of Company and ask you if that is a telegram you received from Mr. Palmer on or about its date?

A. It is; yes.

By Mr. BUNDY.—No. 102. Reads:

“Spokane, Washington, July 30, 1902.

S. G. Moon,

Eau Claire, Wis.

Bought Stevens six thousand scrip \$5.35. Thirty-one deeds by express tonight.

A. E. PALMER.”

(Deposition of S. G. Moon.)

Q. What does that refer to, "Stevens six thousand scrip"?

A. As I remember it, Stevens is the man who lived out to New Richmond and Palmer got him through Mr. Phipps and bought of him lands for which he paid \$5.35.

Q. I show you a letter taken from the files of the Company and marked 103; is that a letter you received from Palmer on or about its date?

A. Yes, sir.

By Mr. BUNDY.—It is offered in evidence:

"Spokane, Washington, July 30, 1902.

S. G. Moon,

Eau Claire, Wisconsin.

Dear John: Just received your wire 'Phipps says scrip in question is all right and can be located on lands described.' Have bought six thousand acres at \$5.35 from Mr. Stevens subject to it being such scrip as you can use. I may go to Eau Claire soon re this scrip and other matters relating to Steunenberg contract. Connors should be here tonight and Eau Claire Monday. Would suggest that you go over with him all lands he has cruised and decide on those you wish to scrip.

Very truly,

A. E. PALMER."

Q. This scrip referred to in the correspondence to which your attention has been called, Mr. Moon, up to July 19, 1902, is the period covered by that correspondence, related to what kind of scrip and where you intended to use it?

(Deposition of S. G. Moon.)

A. It related to Lieu Lands Timber Reserve Scrip and we intended to use it in the Boise Basin. We were doing this to provide Steunenberg with scrip for him to use and complete his agreement with us.

Q. Now, at the time you made this agreement with Governor Steunenberg, it seems he reported to you that a certain number of acres of land had been acquired and certain other lands had been filed on which he assured you you could purchase; now what, if any, talk did you have with him as to the manner, as to the balance of the Boise Basin lands, were to be acquired?

A. We advised and insisted that the balance of the land should be acquired by scrip.

Q. Was that the intention of you and Mr. Barber to acquire the lands which were not entered at the time of the agreement, by the use of scrip?

A. It was. It was our intention. I understood so by him.

Q. So that the Steunenberg contract covered twenty-five thousand acres and was entirely a scrip proposition, except the lands they had already acquired and which had already been segregated by timber and stone entries? A. That is true.

Q. Now, Mr. Moon, you went out to Idaho sometime in the month of May or June, 1902, on your first trip? A. Yes, sir.

Q. While there did you learn of the fact that some order had been made directing the issuing of titles, patents, or did you hear that discussed at that

(Deposition of S. G. Moon.)
time?

A. I don't remember that I heard that discussed. We learned, however, about that time, that there had been an order to that effect. I don't remember whether I learned about it when I was there or after I got home, but probably while I was there.

Q. No titles were acquired or deeds taken by Mr. Palmer for you or anyone until sometime in June, 1902?

A. No, sir; about that time, I think in June, 1902, we began. He began to make drafts on us to pay for titles.

Q. Now, you look at Mr. Palmer's account and can you state from that when he began drawing on you for money with which to take up titles?

A. June 26th is the first.

Q. June 26th, 1902, was the first five thousand dollar draft? A. Yes, sir.

Q. And the money which you sent Mr. Palmer for the purpose of taking titles after the first two or three checks was pretty nearly all sent in five thousand dollar drafts, was it not?

A. As I remember it, yes.

Q. Now, I show you a letter taken from the files of the company, No. 68, and ask you if that is a letter you received from Mr. Palmer in due course of business? A. Yes, sir.

Q. I will ask you as to whether or not there was attached to it that letter?

A. I think it was; I don't know positively.

(Deposition of S. G. Moon.)

By Mr. BUNDY.—We will offer this letter in evidence. It reads:

“Spokane, Washington, May 10, 1902.

S. G. Moon, Esq.,

Eau Claire, Wisconsin.

Dear John: Herewith I hand you list of first lands cruised by Thornton. The lands which do not check with our lands I imagine are state or government lands as he has a plat of them all. While his report was not very plain to me, I suppose it is similar to reports he had made to you before. Am sending him a form as you suggested. Steunenberg has phoned me he thinks patents are at Boise Land Office and is to wire me as soon as he knows positively, and I will go down to Boise.”

Attached to it is this letter:

“Caldwell, Idaho, May 4, 1902.

Pursuant to your request, telephone Friday, I send to you herewith contract; also, warranty deed from Keene with final receipt. This latter must be returned to me at once. Am needing it in matters before the local land office. The regulations require its surrender when patent is delivered. Deeds pass, however, in this country on this receipt, on all kinds of entries. I have personally sold under pre-emption and timber acts upon issuance of final receipt. Under the laws of Idaho and department regulations the lands becomes subject to disposal upon issuance of this receipt. In the absence of contest it is regarded as a perfect title. Inclose you letter from

(Deposition of S. G. Moon.)

Taylor. Hope you will take it as I had to reject offer from Chicago last week. Could not talk with them while acting with you.

With regards,

FRANK STEUNENBERG."

By Mr. BUNDY.—The above letter is written on the stationery of A. E. Palmer and purports to be a copy of a letter from Steunenberg to Palmer.

Q. The letter I have just read you from Mr. Palmer I will ask you whether or not that was the first intimation that you had that deeds were about to issue? A. Yes, sir.

Q. I show you a letter taken from the files of the company marked 1297 with a rubber stamp mark of your company showing it was received May 16, 1902; I will ask you whether or not that letter was received at your office on that date as appears by notations upon it? A. Yes, sir.

By Mr. BUNDY.—We offer that in evidence. Letter reads:

"May 14, 1902.

James T. Barber,

Eau Claire, Wis.

Dear Sir: Inclosed please find copy of telegram by me sent to Mr. Palmer this morning.

Yours truly,

T. F. FRAWLEY."

Telegram attached and marked received at same time, May 16, reads as follows:

(Deposition of S. G. Moon.)

“Eau Claire, May 14, 1902.

A. E. Palmer,

Spokane, Washington.

Take all deeds warranty in form and then convey by like deed and form to James T. Barber and Sumner G. Moon. Express full consideration in each instance.

T. F. FRAWLEY.”

Q. That seems to be addressed to Mr. Barber; do you remember any conversation with Mr. Frawley on that subject?

A. I do not remember anything definitely about it; but evidently we referred it to Mr. Frawley. Refers to Keene or a remark of Mr. Palmer asking advice as to how deeds should be drawn; I don't remember definitely.

Q. In so far as the purchase of lands in the Boise Basin was carried on during the summer of 1902 or at any time, did you give it any personal attention, Mr. Moon? A. No, sir.

Q. Did you at any time have any negotiations at any time with any entryman? A. No, sir.

Q. Did you depend entirely upon your contract with Governor Steunenberg as to these lands?

A. We did; yes, sir.

Q. Did the Steunenberg contract cover lands subsequently acquired in Crooked River and other territory? A. No, sir.

By Mr. BUNDY.—Do you remember Keene? That was the first deed taken?

By Mr. GORDON.—Yes.

(Deposition of S. G. Moon.)

Examination adjourned to ten o'clock A. M., May 11, 1909, at this office.

May 11, 1909, ten o'clock A. M., examination resumed pursuant to said adjournment.

(By Mr. BUNDY.)

Q. Mr. Moon, we got down last night to sometime in June, 1902, when you testified that Mr. Palmer began drawing on you for funds with which to buy lands; I will ask you if after you began sending money in June, Mr. Steunenberg began to take deeds?

A. Yes.

Q. And began to report from time to time that he had acquired so many deeds from entrymen?

A. Yes, we got such reports from Mr. Palmer.

Q. I will ask you if at the time you began taking these deeds, any patents had been issued?

A. Not any that I know of.

Q. You testified that the original arrangement with Governor Steunenberg was that he was to take deeds from the entrymen after patents issued; now what and when was the change of plans made, if you know, with reference to taking deeds before patents?

A. He seemed to change the plan at the time he sent the first deed for the Keene entry; I think it was sometime in May. The first that we knew of his change was at the time he sent the Keene deed, and as I remember it, we took the matter up with Mr. Frawley and I think he advised that in his opinion a deed based upon final receiver's receipt was good. However, I think we did have different information from that, but finally were convinced that deed on

(Deposition of S. G. Moon.)

final receipt was good.

Q. Do you recall that sometime, as a reason for his change of base, Governor Steunenberg furnished you a written opinion of Senator Borah?

A. Yes, sir; I remember that. Senator Borah's opinion was, as I remember it, that a deed based upon final receiver's receipt was good title.

Q. Now, Mr. Moon, up to that time, did you know anything about temporary receipts having been issued for these Basin entries?

A. No, sir; neither then nor did I learn of it afterwards until you told me after you had been to Boise on this case.

Q. After I had been to Boise at the trial of Senator Borah in September and October, 1907?

A. Yes, sir.

Q. I also neglected to ask you about Frank Martin, one of the parties mentioned in this complaint and who was indicted with you; do you know Frank Martin, Ex-Attorney General of Idaho?

A. Yes, sir; I have met him.

Q. Where did you first meet him?

A. In Madison, at a hearing we had there of removal proceedings.

Q. Something about a year ago?

A. About a year ago.

Q. Last August? A. Yes, sir.

Q. Prior to that time you had ever met him?

A. No, sir.

Q. Did you ever, at any time, have business relations with him? A. No, sir.

(Deposition of S. G. Moon.)

Q. Any correspondence with him to acquire lands in Idaho?

A. No, sir; I don't remember of hearing of him until I read an account of his indictment with us.

Q. Mr. Moon, was the money which was used for the purchase of the original Basin lands and entries in the Boise Basin all remitted by you and Mr. Barber or the company to Palmer in the first instance?

A. Yes, sir.

Q. And by Palmer turned over to Steunenberg?

A. Yes, sir.

Q. Was there any reason for sending the money to Palmer except as shown by your letter of instructions to him and his agreement to be responsible for the proper disbursement of your money?

A. No, sir.

Q. Mr. Palmer had no interest in it himself?

A. No, sir.

Q. The moneys other than the moneys sent out pursuant to the Steunenberg contract were not sent to Palmer in the Crooked River and town six, range four matters?

A. No, sir; it seems to me that at sometime between the time that Mr. Palmer quit attending to our matters and before Mr. Chapman went out there, we may have sent Steunenberg some money; I am not positive about that.

By Mr. GORDON.—Was that in the Basin entries?

A. I have no definite recollection about it, but it seems to me that at sometime after December, 1902,

(Deposition of S. G. Moon.)

which I think was the time we settled with Palmer, and before Mr. Chapman went out there, we may have honored drafts from Steunenberg on his contract, but I won't be sure about that, but the books will show.

(By Mr. BUNDY.)

Q. State, Mr. Moon, as to what personal attention you gave to the purchase of lands by Steunenberg under his contract; how you treated that contract?

A. I gave no personal attention to it; depended upon Mr. Palmer to follow instructions in checking up the moneys which went to Steunenberg and depended on Steunenberg's contract, the contract we had with Steunenberg.

Q. Mr. Steunenberg guaranteed the titles?

A. He guaranteed the titles.

Q. Mr. Moon, it appears in the evidence taken in this case, that a large number of the timber and stone entrymen in the Basin procured money with which to make final proofs from one John I. Wells; I will ask you if you were informed of that fact or knew of it prior to the trial of this case? A. No, sir.

Q. Were you advised by anyone, by Steunenberg or anyone else that Sweet was furnishing money to Wells for these entrymen before you were informed by me at the time that this case was being tried?

A. No, sir.

Q. At the time you made the contract with Steunenberg here at Eau Claire were you advised of any facts relative to Steunenberg or Sweet or Wells, or

(Deposition of S. G. Moon.)

Kinkaid, or Pritchard, or Downs, or any other person, having procured timber and stone entrymen to make entries, or assist them in a financial way in making final proofs? A. No, sir.

Q. I show you, Mr. Moon, two sheets of paper, at the bottom of which is a letter purporting to be written by A. E. Palmer, and taken from the files of the company, and ask you if that letter at the end is in the handwriting of A. E. Palmer? A. Yes, sir.

Q. And is a letter received by you or your company at the time indicated by the rubber-stamp mark, April 4, 1904? A. Yes, sir.

Q. And the balance of that document is in whose handwriting? A. Mr. Cotton's.

Q. Put on the record who Mr. Cotton is and his duties.

A. Mr. Cotton is the cashier of the Northwestern Lumber Company. The books of the company are kept under his direction. He also kept the books of the Barber Lumber Company while they were kept at our office.

Q. And he is your general auditor in lumbering, railroading, and other operations?

A. Yes, sir.

Q. This statement which I have shown you and which is marked 119½ in blue pencil, purports to be an account of A. E. Palmer with the Barber Lumber Company down to the signature of Mr. Cotton, showing a balance of account for, of \$714.02 to be accounted for. Then follows a letter of Mr. Palmer in which he accounts for that amount, does he not?

(Deposition of S. G. Moon.)

A. Yes, sir.

Q. Will you step to the ledger of the Barber Lumber Company and advise me if the last entry charged to Mr. Palmer is the \$714.02 which he had not accounted for before? A. Yes, sir.

Q. Was he given credit on April 11, 1903, for the \$714.02, which he had not accounted for before?

A. Yes, sir.

Q. Now, is this document, No. 119 $\frac{1}{2}$, a true and correct statement as shown by the reports of Palmer and the books of the Barber Lumber Company of the disbursements of money on this Steunenbergs contract? A. Yes, sir.

By Mr. BUNDY.—We will offer that in evidence as supplementary statement made at Boise which included part, but not all, of disbursements and receipts.

It reads as follows:

(Deposition of S. G. Moon.)

Eau Claire, Wis., Dec. 26, 1903.

A. E. Palmer,

In % with Barber Lumber Co.

1902.							
Apr.	17.	To cash pd. your draft on B. & M...	\$38763.75	cr. me	38.76		
	17.	" " " " " " " " " " " "	1201.20	"	1.20		
	29.	" " " " " " " " " " " "	826.00				
May	8.	" " " " " " " " " " " "	250.25		.25		
June	26.	" " " " " " " " " " " "	5005.37		5.37		
	30.	" " " " " " " " " " " "	963.55				
July	1.	" " " " " " " " " " " "	5053.00		53.00		
	3.	" " " " " " " " " " " "	5005.00		5.00		
	9.	" " " " " " " " " " " "	5005.00		5.00		
	14.	" " " " " " " " " " " "	5005.00		5.00		
	22.	" " " " " " " " " " " "	130.70	cr. me. per letter			
	30.	" " " " " " " " " " " "	10010.00		10.00		
Aug.	9.	" " per S. G. Moon.....	40.00	cr. me pd. by de-			
				ducting from			
	II.	" " paid your dft.....	10010.00	dft. see letters	10.00		
	II.	" " " " " " " " " " " "	161.75	cr. me per let-			
				ter.			
Sept.	23.	" " " " " " " " " " " "	186.55	cr. me per let-			
				ter.			
Nov.	4.	" " Sent your N. Y. dft.....	3000.00				
Dec.	3.	" " 3 N. Y. Dfts \$2000.00 each..	6000.00				
					96617.12		

CREDITS.

1902.							
April	10.	By cash pd. F. Steunenberg—ck.	1008.. \$5800.00		5.80		
	11.	" " " " " " " " " " " "	1009.. 1200.00		1.20		
	25.	" " " " " " " " " " " "	1016.. 826.00				
May	2.	" " " " " " " " " " " "	1023.. 250.00		.25		
June	16.	" " " " " " " " " " " "	1056.. 5000.00		5.37		
	25.	" " " " " " " " " " " "	1060.. 5000.00		5.00		
	26.	" " " " " " " " " " " "	1063.. 5000.00		5.00		
	30.	" " " " " " " " " " " "	1068.. 5000.00		5.00		
July	7.	" " " " " " " " " " " "	1074.. 5000.00		5.00		
	21.	" " " " " " " " " " " "	1080.. 10000.00		10.00		
Aug.	15.	" " " " " " " " " " " "	1096.. 5000.00		5.00		
Oct.	31.	" " " " " " " " " " " "	1133.. 3000.00				
Dec.	2.	" " wired from New York	.. 6000.00				
Apl.	10.	" " Wm. Sweet ck. 1007—21950.00..	32925.00		32.95		
			10975.00				
Nov.	14.	" " returned to us—being part of					
		amount pd. you Aug. 11/02..	5000.00		5.00		
		By Cash paid men viz:					
Apl	2.	ck. #1000.....	\$ 17.00				
	4.	" 1003.....	65.75				
	10.	" 1029.....	16.10				
May	10.	" 1030.....	25.00				
	10.	" 1031.....	25.00				
	10.	" 1033.....	44.75				
June	9.	" 1046.....	213.00				
Forward.....			406.60	95001.00	96617.12		

(Deposition of S. G. Moon.)

5.00—Letter advising you of dft. will show you what dif. (48.00) is
(My Bank Book shows \$5000.00 only. P.)

A. E. Palmer a/c. Continued.

1902.		Forward.....	\$406.60	95001.00	96617.12
June 14.	By	Cash—ek #1049.....	54.50		
14.		" 1050.....	33.75		
14.		" 1051.....	25.00		
14.		" 1052.....	25.00		
14.		" 1053.....	50.00		
16.		" 1055.....	43.50		
July 3.		" 1073.....	90.20		
14.		" 1076.....	40.50		
31.		" 1086.....	86.50		
Aug. 13.		" 1094.....	46.55	902.10	95903.10
Balance to account for.....					714.02
Cotten.					
	Cr. me	drafts.....	\$963.55		
	"	.....	130.70		
	"	.....	161.75		
	"	.....	186.55	\$1,442.55	
	Less your	cr. pd. men.....		902.10	540.45
	Cr. me	dif. in your chge. 7/1...		53.00	540.45
	less	included in my exch. a/c....		5.00	48.00
	Cr. me	\$40.00 rec'd. from S. G.			
	M. this	amt. was deducted from			
	a subsequent	dft—letters should			
	show it.....				40.00
	Cr. me—	exchange 1/10 of 1% on			
	drafts	about.			85.57
					714.02

Mr. COTTEN.—Not having my letter-book or checks here, I can explain difference from this stnt, & my Bank Book & memory only. It seems to balance & if you will look up my letters advising you of dfts., they will explain what was for labor, personal exps., also the \$40.00 chge. I gave C. B. Connors \$75.00 in c'y, & P. Downs about \$30.00. My stnts. should show what all chges. were for, Spokane Bank chg'd me 1/10 of 1% on all dfts. I cannot explain the \$88.00 dif. in memo., left Mr. Moon unless I made

(Deposition of S. G. Moon.)

a mistake & from this stmt, it would appear I did.

Very truly,

A. E. PALMER."

Q. Mr. Moon, when this Steunenberg contract was first entered into and you and Mr. Barber first became interested in Idaho lands, state whether or not it was the intention to confine it to the Boise Basin lands?

A. Our first intention was to confine it.

Q. And what was your intention at that time with reference to the plant, the capacity of the plant you were to build?

A. We had, as I remember it, no definite intention or plan as to a plant when we made the contract with Steunenberg. We didn't know whether we would treat it as a speculation or whether we would develop it; but soon after that, after we thought we would get in the neighborhood of two hundred million feet of timber, we planned to buy a mill from the Montreal River Lumber Company, at Gile, Wisconsin, in which company we were interested, and who were through sawing. We thought we could move that mill out there and put it up at a cost somewhere between twenty-five and fifty thousand dollars, I think, and that would have been a sufficient mill for that amount of timber.

Q. State as to what has been the tendency of the proposition as soon as you started, as to whether it has grown beyond expectations?

A. Yes, we continually heard of other timber on the north and south forks of the Boise River, and

(Deposition of S. G. Moon.)

thought that a good deal of that might be acquired, and that Boise was the proper place to manufacture all of that timber.

Q. I will ask you what was the original stock of the Barber Lumber Company?

A. One hundred and fifty thousand dollars.

Q. Has that been from time to time increased to keep up with the changed plans and necessities of the business?

A. Yes, sir.

Q. What is its present capital?

A. Its present capital is a million and a half and an increase to that of five hundred thousand has been voted and a large part of it subscribed and one assessment, I think of thirty per cent paid in.

Q. When did you first go to Idaho, Mr. Moon?

A. In June, 1902.

Q. And how many trips did you make there during that year?

A. Two.

Q. And when did you go to Idaho again?

A. I went to Idaho again, I think the last part of August, 1902, the latter part of August, 1902, or the first of September; I was there about the first of September, 1902.

Q. Those were the two trips in 1902?

A. Yes, sir.

Q. When were you there again?

A. I think it was in February, 1905.

Q. And have you been there since?

A. Yes, sir; I was there also once or I think possibly twice in 1906.

Q. Now, this first visit you made there in June,

(Deposition of S. G. Moon.)

1902, how long were you there then?

A. I think about two weeks.

Q. What were you doing there that time?

A. Well, principally looking up timber; the purpose of the trip was to first go up into the timber, see the timber and see the condition of the streams up in the Basin and then after that I spent some time in investigating the condition of the river at Boise, both above and below the city with reference to a feasible location for a manufacturing plant.

Q. Mr. Moon, at that time did you have any talk with any person with reference to locating timber and stone men on timber and stone lands?

A. No, sir.

Q. Did you at that time have any talk with them?

A. No, sir.

Q. Did you at any time authorize any person on behalf of yourself or Mr. Barber or the Barber Lumber Company to solicit or procure people *people* to make stone and timber entries? A. No, sir.

Q. Did you authorize Stunenberg or any other person or advance money to them for the purpose of proving up or procuring title?

A. No, sir.

Q. Did you have any knowledge of any money belonging to the Barber Lumber Company or yourself or Mr. Barber being so used, if it was so used?

A. No, sir.

Q. I want to introduce some letters relative to the purchase of these Basin entries. I show you a letter marked 89 and ask you if that is a letter re-

(Deposition of S. G. Moon.)

ceived by you from Mr. Palmer?

A. Yes, sir.

Q. And he says in there he encloses a copy of a letter from Steunenberg, and I ask you if that is a copy of the letter sent to you by Palmer?

A. Yes, sir.

By Mr. BUNDY.—We offer this in evidence which reads:

“Spokane, Wash., June 30, 1902.

S. G. Moon,

Eau Claire, Wis.

Dear John: I enclose copy of letter from Stunenberg re patents. Send me check for five thousand dollars. If patents begin to issue, I will go to Boise.

Very truly,

A. E. PALMER.”

A copy of the letter received and which is attached, reads as follows:

“Sho Shone, Idaho, June 28, 1902.

My Dear Palmer: In response to a telephone communication from Boise yesterday that entries were being opened up, I send Kinkaid five thousand dollars to take care of the situation until my return Monday; I am going to Ketchum today to load a lamb shipment for Chicago. Did intend to go with them, but anticipating that entries would soon be approved, have concluded to remain. Please send me five thousand dollars to cover advances made yesterday; I will send statement of expenditure early

(Deposition of S. G. Moon.)
next week.

Sincerely yours,

FRANK STUNENBERG."

Q. I will ask you if you learned some time in some manner that Mr. Stunenberg in carrying out his contract with you in buying these lands, had employed a man by the name of Kinkaid, and if so when did you learn it?

A. I don't remember just when I learned that Kinkaid was employed in the matter, nor do I know definitely what his connection with Mr. Stunenberg was, but some time, I think on a trip to Boise, or possibly through some correspondence, I learned that there was a man Kinkaid who was some sort of an agent of Steunenberg or was selling Steunenberg titles. I don't know when I first learned that.

Q. Did you have anything to do, directly or indirectly, with the employment of Kinkaid?

A. No, sir.

Q. Do you know anything about the terms upon which he was employed? A. No, sir.

Q. Ever have any correspondence with Kinkaid?

A. No, sir.

Q. Ever furnish him with money or do any business with him at all? A. No, sir.

Q. Did Mr. Kinkaid at any time with reference to this Boise Basin have any contract with you or Mr. Barber or the Barber Lumber Company?

A. No, sir.

Q. Did you have any arrangements with any person, except the contract with Steunenberg in evi-

(Deposition of S. G. Moon.)

dence, and with Palmer, with reference to the Basin entries? A. No, sir.

Q. Were all the Basin entries acquired during the fore part of 1902, secured under the Steunenberg contract, in that way? A. Yes, sir.

Q. I show you a letter taken from the files of the Company, marked No. 96, and ask you if that is a letter received by you from Mr. Palmer in this matter? A. Yes, sir.

By Mr. BUNDY.—Attached to it is a Dennis Thornton expense account, we offer 96 in evidence, which reads:

“Spokane, Wash., July 15, 1902.

S. G. Moon, Esq.,

Eau Claire, Wis.

My Dear John: I am drawing on you for \$130.70 in payment of C. B. Conner's expense account, per enclosure, \$90.20, Dennis Thornton's expense account, per enclosure \$40.50, total \$130.70.

Have heard nothing from Hambly so will send you Conners in about ten days. Think Thornton can keep up with the work now, owing to the delay in patents; I telephoned the governor yesterday, that he must send me deeds as fast as he takes them; Am going to Portland to-night to see about scrip and am going on to Boise; I enclose Thornton's estimate on State lands 6-5 east.

Your wire of yesterday and letter of the 12th received; the only reports I am short are Thornton's second and third reports; was a little afraid to buy

(Deposition of S. G. Moon.)

scrip until you had run down the \$4.50 offering.

Very truly,

A. E. PALMER."

There is a lot of expense accounts attached to these items. I show you copy of a letter in the D. R. Moon copy-book, page 1303; is that a copy of a letter you wrote Palmer on or about that date?

A. Yes, sir.

Mr. BUNDY.—We offer that in evidence, which reads:

Eau Claire, Wis., July 17, 1902.

Mr. A. E. Palmer,

Spokane, Washington.

Dear Al:—I got a wire from Steunenberga few days ago namely: "Situation here most satisfactory and party is recalled. What is the news?"

I presume that means that the final receipts and patents on all the lands will be forth coming at once and you will be taking deeds. We have organized as Barber Lumber Company at Eau Claire, Wisconsin, and think you had better take the deeds from the entrymen in your name and have them recorded; then you in turn deed to the Barber Lumber Company. I don't think it would be advisable for us to have these deeds go on record for the present. Do you?

I find that there were three or four letters sent to me, care of Idah-ha, Boise which I never got. Would you mind asking at the hotel the next time you go to Boise, if they received any mail for me

(Deposition of S. G. Moon.)

after I left, and if so what they did with it.

Yours truly,

S. G. MOON.

P. S. I enclose copy of letters which Mr. Barber has today written to Steunenberg."

Q. Mr. Moon, with reference to that telegram "Situation here most satisfactory and party is recalled. What is the news?" Do you recall the incident?

A. Yes, sir.

Q. Do you know to what the telegram referred?

A. Why, Steunenberg as I remember it stopped here on his way east, saying that there was a general suspension of timber and stone entries and that there was a special agent, I think it was or some land office man from Washington at Boise, and that he was going down to Washington, as I remember it to try and find out why he was there and when he would be likely to be recalled.

Q. Do you recall the fact that an order had been made in June or May some time modifying this general order?

A. I have no definite recollection on that subject.

Q. This letter is dated July 17, 1902; now was it at or about that time that you first heard about this general suspension order that was in force?

A. The first I remember this—I don't remember having heard of it until Steunenberg went there, although he may have written about it before. Was that telegram from the east?

Q. I don't know, it was just a telegram you re-

(Deposition of S. G. Moon.)

ferred to.

A. I have forgotten about that.

Q. Do you recollect of learning at that time or any time of this suspension order having been modified or vacated? A. Yes, sir.

Q. Do you recollect that the Boise land office had still refused to issue final receipts so long as their particular office was under investigation?

A. Yes, sir, as you speak of it, I now remember; it seems to me early in June some time I heard that; I may not have heard that at that time but I heard I think, early in June that the order was suspended, but the Boise land office did not issue our patents and Steunenberg went to Washington, I think to see why that was; that is my recollection; that was my understanding of the telegram when it came.

Q. Had you any personal knowledge of the situation at the land office as to the orders that were made or vacated; did you have any knowledge of any timber inspector being there, except what Steunenberg told you? A. No, sir.

Q. Nor for what purpose he was there?

A. No, sir; I understood that it was a general order and not confined to that locality.

Q. You say in this letter that "You had better take deeds from entrymen in your name and have them recorded, then you in turn deed to the Barber Lumber Company. I don't think it would be advisable for us to have these deeds to go on record for the present." What deeds were these?

A. These were the deeds from Mr. Palmer to the

(Deposition of S. G. Moon.)

Barber Lumber Company.

Q. Why, Mr. Moon, did you think it was not desirable to have these go on record at that time?

A. We didn't want to advertise the fact that the Lumber Company was collecting the lands in the Boise Basin.

Q. Why didn't you want to advertise that fact?

A. Because that would tend to make the price of timber advance considerably.

Q. Did you have any other motive or reason other than that? A. No, sir.

Q. I show you a telegram taken from the files of the Company; 99 is that a telegram you received from Mr. *Paler* on or about that date?

A. Yes, sir.

By Mr. BUNDY.—That is offered in evidence and reads as follows:

“Nampa, Idaho, July 26.

S. G. Moon, Eau Claire, Wis.

Have 30 deeds and 14 more left with S. Spokane to-morrow.

A. E. PALMER.”

Q. Was that the first report of deeds having been taken, Mr. Moon, or was there any before that?

A. I don't remember, I think it was.

Q. I show you a telegram marked No. 102; was that received by you from Mr. Palmer on or about that date?

A. I don't remember, I think it was.

Q. I show you a telegram marked No. 102; was

(Deposition of S. G. Moon.)

that received by you from Mr. Palmer on or about that date? A. Yes, sir.

Mr. BUNDY.—It is offered in evidence and reads:

“Spokane, Wash., July 30, 1902.

S. G. Moon,

Eau Claire, Wis.

Bought Stevens 6000 scrip \$5.35. 31 deeds by express to-night.

A. E. PALMER.”

Q. That expression 31 deeds by express tonight indicated to you that he was sending you 31 deeds by express? A. Yes, sir.

Q. Was that the manner in which deeds were taken, Mr. Stunenberg taking them to Palmer and Palmer paying him for them out of funds provided for such purpose, and Palmer sending them to you?

A. Yes, sir.

Q. And deeds were kept here as fast as sent?

A. For a time until an office was established in Boise.

Q. Deeds were not sent directly by Gov. Steunenberg to you then? A. No, sir.

Q. I show you a copy of letter found on page 1401 of the D. R. Moon copy-book; is that a copy of a letter written and mailed by you to A. E. Palmer?

A. Yes, sir.

By Mr. BUNDY.—We offer that in evidence and reads as follows:

(Deposition of S. G. Moon.)

“Eau Claire, Wis., Dec. 17, 1902.

A. E. Palmer,

Hotel Imperial, New York.

Dear Al: I have your letters of the 14th inst. I note what you say about Trinity Mining Stock and have referred it to Mr. Barber and Chess. We don't feel any of us that we are in a position to go in, but thank you for the chance. Chess expects to be in New York at the Holland on Dec. 23, I also note what you say about suspended entries being released, I sincerely hope it is no mistake so that Stunenberg can go on and acquire land in accordance with his contract and we can record our titles. The Boise & Caldwell papers came out a few days ago with head lines clear across the paper, stating that Scofield was buying timber up in the Basin, and was about to begin a plant at Boise, which would cost nearly a half a million dollars. I am afraid that will hurt us some.

Yours,

S. G. MOON.”

Q. I now show you a document taken from the files of the Company marked 119, and ask you if that is the receipt of A. E. Palmer for money paid him for his services as provided under the Steunenberg contract? A. Yes, sir.

By Mr. BUNDY.—We offer that in evidence and reads as follows:

(Deposition of S. G. Moon.)

May 6th, 1903.

Received of Barber Lumber Company twenty-five hundred dollars (\$2500.00) in full for services to date.

A. E. PALMER."

Q. Now prior to the execution of that receipt in May, 1903, Mr. Palmer had completed his work entirely, had he not? A. Yes, sir.

Q. And so far as the Basin entries were concerned and the Steunenberg contract were completed, so far as it is completed, except so far as the 6-4 land afterwards acquired?

A. Yes, sir.

Q. By referring to the money furnished to Mr. Palmer, can you tell the month in which the most of his work was done for you?

A. In December, 1902.

Q. In December, 1902, he wired \$6000.00 to Governor Steunenberg from New York, didn't he?

A. Yes.

Q. And drew drafts on you from New York for that amount? A. Yes, sir.

Q. That is the last item of either receipts or disbursements by Mr. Palmer in this matter, was it not?

A. Yes.

Q. And with the close of his business in December, 1902, it closed the purchase of the Basin Lands under the Steunenberg contract, with the exception I believe, of two or three claims that were purchased some time afterwards?

A. As I remember; yes, sir.

(Deposition of James T. Barber.)

Q. Now, Mr. Moon, we will take Mr. Barber for a time; you will step one side, please.

[Deposition of J. T. Barber, on Behalf of the Defendants (Recalled).]

J. T. Barber, recalled for examination, testified as follows:

(By Mr. BUNDY.)

Q. I neglected to ask you about Frank Martin, and if you know him and where you met him?

A. The first time I ever saw Frank Martin was in Madison last August, I think.

Q. Did you ever have any business relations with him of any kind or character?

A. None, whatever.

Q. Or any correspondence with him?

A. None, whatever.

Q. He was at Madison last August as a witness in certain removal proceedings?

A. Yes, sir.

Q. Mr. Barber, at the time Gov. Steunenberg was here at Eau Claire, and up to that time, had you heard what is spoken of here as temporary receipts being issued to stone and timber entrymen, who had made final proofs?

A. No, sir.

Q. Will you tell how and when you first learned of the fact that temporary receipts had been issued?

A. When you returned from Boise, where you had been attending the Borah trial, was the first I ever heard of any temporary receiver's receipts in the land office.

Q. Did you know, were you advised at the time you made your arrangement with Mr. Steunenberg

(Deposition of James T. Barber.)

or the time you purchased Sweet's interest, that any money had been advanced by Steunenberg or Sweet or anybody else to the entrymen who had made final proofs at that time? A. No, sir.

Q. Did you personally or as an officer of the Barber Lumber Company at any time authorize Steunenberg, Palmer or anyone else to advance money to people with which to make final proofs on timber and stone claims? A. No, sir.

Q. Or for the purpose of meeting their expenses?

A. No, sir.

Q. Did you at any time ask or solicit any person to make timber and stone claims in Idaho or elsewhere? A. No, sir.

Q. Did you at any time authorize Steunenberg, Palmer or any of your employees or agents to make such solicitation? A. No, sir.

Q. When did you first learn that the original plan of not taking deeds until the patents were issued was changed and deeds were to be taken on final receipt; about when I mean?

A. Why, about some time in June, 1902.

Q. At the time, about the time the first deeds were taken and reported here?

A. Yes, sir.

Q. Now, prior to the time deeds were taken by Gov. Steunenberg from entrymen and that fact reported to you, did you know that deeds were to be taken on final receipt? A. No, sir.

Q. I will ask you as to whether or not that question of taking deeds on final receipt, was discussed

(Deposition of James T. Barber.)

between you and Gov. Steunenberg, and you and other people as to the advisability and legality of taking such deeds?

A. I don't remember any particular discussion of that question.

Q. Do you remember that Gov. Steunenberg furnished to you the written opinion of Senator Borah on the question? A. Yes, sir.

Q. I show you a document written on the back "Opinion of W. E. Borah" and ask you if that is the opinion which Gov. Steunenberg delivered to you as the opinion of W. E. Borah?

A. Yes, sir, it is.

Q. You know the signature of Senator Borah, do you not? A. Yes, sir.

Q. That is his signature? A. Yes, sir.

Q. I offer it in evidence; it reads as follows:

Boise, Idaho, July 25, 1902.

Hon. Frank Steunenberg,
Caldwell, Idaho.

Dear Sir: Referring to the effect of the receiver's receipt or certificate of purchase issued by the receiver upon proof and payment of those seeking title to public lands and as to whether or not thereafter the purchaser owns title in the sense that he may transfer the same and deal with the property as his own, etc., will say that in my opinion there can be no question but what the purchaser has a perfect right thereafter to deal with the property as his own. After proof and payment is made the property becomes private property and the individual has a

(Deposition of James T. Barber.)

right to deal with it as such. The Government has no further interest in it, and the mere formal issuing of the patent is not necessary at all in order to give the purchaser a right to deal with the property. In the case below which was by Judge Sawyer I find this language:

‘The purchaser became the equitable owner of the land the moment he entered and paid for it and received a certificate of purchase. From that time the United States had no real interest in the land. It only had the dry legal title in trust for the purchaser pending the usual necessary delay in issuing patents and the patent owner perfected the title the right to which had already vested. The lands ceased to be public lands when entered and paid for. When the patent finally issued it attaches itself to the entry and relates to the date of entry. It is regarded for the purpose of protecting the rights of the patentee against the party seeking to acquire intervening rights as it issued at the date of entry. The entry and patent are regarded as one title.’

P. C. M. Co. vs. Spargo, 16 Fed. 349.

The supreme court of California has said, ‘If any of the claimants have paid to the proper officer of the United States the purchase money for the lands, the lands so paid for are clearly subject to taxation as lands, although the patent might not have been issued. By the payment and acceptance of the purchase money the claimant has performed everything to be done by him and the purchase has been completed. The payment, receipt of the purchase

(Deposition of James T. Barber.)

money and the issuing of the receipt and certificate of entry therefor constitute an entry of the land. The contract of purchase is executed and the land is his and no longer belongs to the Government. The conveyance has not been made but the Government of the United States only holds the legal title in trust for the purchaser. The land no longer constitutes a part of the public domain. The United States has ceased to have any proprietary interest in it. It is henceforth private property.'

People v. Shearer, 30 Cal. 648.

The Supreme Court of the United States has repeatedly approved this doctrine and in the case below it said:

'When the land was purchased and paid for it was no longer the property of the United States, but of the purchaser. He held for it a final certificate which could no more be cancelled by the United States than a patent. It is said the fee was not in the purchaser, but in the United States until the patent shall be issued. This was technically so in law but not in equity. The lands in the hands of the purchaser as real estate, descends to his heirs, etc.'

Carroll v. Safford, 3 Howard U. S. 459.

Huseman v. Durham, 165 U. S. 665.

'According to the well-known proceeding at the land office, if the party is entitled by law to enter the land the receiver gives him a certificate of entry reciting the facts by means of which in due time he receives a patent. The contract of purchase is

(Deposition of James T. Barber.)

completed when the certificate of entry is executed and delivered therefor and the land ceases to be a part of the public domain. The Government agrees to make over the conveyance as soon as it can, in the mean time holds the naked legal fee-in trust for the purchaser who has the equitable title. As the patent emanates directly from the president it necessarily happens that years elapse before in the regular course of business in the general land office it can issue, etc. * * * in either case (cash entry or donation) when the entry is made and certificate is given the particular land is segregated from the mass of public lands and becomes private property.'

Witherspoon vs. Duncan, 71 U. S. 341.

The following cases also support this rule:

Bagnell vs. Broderick, 13 Peters, 450.

Gibson vs. Choteau, 13 Wallace, 93.

Shepley vs. Cowan, 91 U. S. 337.

Qwinne vs. Niswanger, 15 Ohio, 368.

Astrom vs. Howard, 3 McLean, 108.

Smelting Co. v. Kemp, 104 U. S. 647.

I think there can be no doubt that the rule is well established that when the certificate of purchase is made, the property becomes private property and subject to the absolute disposition of the owner.

Very respectfully,

W. E. BORAH.

Q. Up until the time when deeds began to be taken and Mr. Palmer began drawing on you for money for the purpose of taking deeds, had you been advised of any change in the plan as origi-

(Deposition of James T. Barber.)

nally outlined, that deeds were not to be taken until patents issued? A. No, sir.

Q. Now, Mr. Barber, state as to whether or not you gave the matter of procuring title in the territory covered by Gov. Steunenberg's contract any particular or detailed attention?

A. No, sir, I did not.

Q. State why, please?

A. I felt that the contract we had with Steunenberg was sufficient for our own protection, contract required him to do certain things, he agreeing to do them and we simply left the matter entirely to him and relied on the contract.

Q. State how you regarded Gov. Steunenberg from what information you had relative to him?

A. We had the highest opinion of Gov. Steunenberg, it has already gone into the record what Mr. *Camel* said about him and what Mr. Palmer said about him. Individually I made some investigation and from the report I got, was of the highest character.

Q. State how he impressed you personally, Mr. Barber?

A. I was very agreeably impressed with him. I think he was very aptly described by Mr. Wallace of the Mountain Building and Telephone Company when he was told that Mr. Steunenberg was doing something for us up there in that country, he brought his hand down on his desk and said "One of God's noblemen, an honest man" that is the way he impressed me.

(Deposition of James T. Barber.)

Q. You say you had confidence in Mr. Palmer in disbursing your money?

A. I certainly did with all the years' experience with him.

Q. When did you first go to Boise, personally, Mr. Barber?

A. I would have to refresh my memory, it was in September, 1902, I think, August 31, 1902.

Q. Did you at any time have any personal talk or conversation or transaction with either Kinkaid, Wells, Downs or Pritchard with reference to acquiring lands in the Boise Basin? A. No, sir.

Q. Was Mr. Downs or Mr. Wells or any other person ever employed by you personally, or by you and Moon jointly, or by the Barber Lumber Company, for the purpose of securing lands for entry-men to locate upon? A. No, sir.

Q. Or for the purpose of soliciting or inducing people to locate on lands? A. No, sir.

Q. What was your attitude, Mr. Barber, about filing on these lands with stone and timber entries?

A. My desire was to secure this desirable tract of timber so far as we could, by the use of Lieu Land Scrip.

Q. Did you procure your lands by the use of Lieu Land Scrip, wherever you did get a head of the timber and stone filings? A. We did.

Q. Do you recollect the incident of this telegram which I read to Mr. Moon to the effect that a party had been recelled and that everything was satisfactory?

(Deposition of James T. Barber.)

A. My recollection of that matter was, was that there was a special agent of the Government around the Boise land office, having been sent there some time previous for the purpose of investigating claims which the Government thought had been fraudulently filed; that after the raising of the embargo, after the raising of the embargo, recalling of the fraud order, this man remained around the Boise office and the officers declined to issue final receipt or patents or anything, even after the fraud order was called off, taking the position that they were still under investigation so long as this man was there. That is my recollection of it. It is not as distinct as it ought to be.

By Mr. GORDON.—That was the order of suspension? A. Yes, sir.

Q. Not to any particular claim?

A. No.

By Mr. BUNDY.—State your understanding, Mr. Barber, of this general suspension order, of its abrogation later.

A. As I understood later, there had been issued from Washington a general order suspending all timber and stone and possibly all other entries in certain large district of the west during an investigation by the Government; that order was in force for some time and afterwards suspended, except in cases where actual charges of fraud had been made. Is that not right?

By Mr. BUNDY.—That is substantially it.

A. Now, the Boise land office after the revocation

(Deposition of James T. Barber.)

of the order took the position that their office was still under special investigation or that the timber and stone entries made through their office was still under investigation so long as the special agent was retained around there, that this telegram referred to the fact that this special agent had been finally recalled. That is the way I recollect it. I am hazy on it a little.

Q. There has been, Mr. Barber, in this case a large amount of evidence relating to certain entries of one Arthur Anderson, and Able Hunter, and Harvey Wells, James T. Ball and Albert Nugent, which entries were made sometime in 1901, and final proofs made December 10, 1901, and which entries were by order of the local land office at Boise, held for suspension and their filings cancelled. It further appears that certain appeals taken from the decision of the local land office to the commissioner to the general land office, who affirmed the rulings of the local land office, and another appeal was taken from the general land office to the Secretary of the Interior, where the order was again affirmed. None of your lands, of course, come to you through their entry. Now, Mr. Barber, at the time when you entered into your agreement with Governor Steunenberg, here at Eau Claire, and at the time you bought out Sweet's interest had you ever heard of the fact, that these gentlemen had entered lands or that any contest had been filed against them, or anything in connection with them? A. No, sir.

Q. Had you ever heard of these entries or the ap-

(Deposition of James T. Barber.)

peals mentioned, prior to the time you saw it charged in a certain indictment served upon you here?

A. No, sir.

Q. Did you at any time authorize Steunenberg or any other person to spend any of your money, the Barber Lumber Company or Mr. Moon's money in the prosecution of those appeals or the contested entries?

A. No, sir.

Q. Was any money spent with your knowledge for either of those purposes?

A. No, sir.

Q. Were you informed by Governor Steunenberg or anybody else in any manner that such filings had been made and such proceedings had, with reference to them as I have described?

A. No, sir.

Q. Were you or Mr. Moon or the company, in any manner interested financially, or otherwise in the contested claims of the five gentlemen I have mentioned?

A. No, sir.

Q. At the time you entered into the agreement with Mr. Steunenberg or at the time you bought out Mr. Sweet, or Mr. Palmer did for you, on the 10th of April, 1902, did you know of this general suspension order that has been mentioned?

A. No, sir.

Q. Had you been advised by anybody, directly or in any manner that there was a general suspension order in force in Idaho, or elsewhere?

A. No, sir.

Q. I will ask you, Mr. Barber, if you ever heard of it until you were informed that such an order had been modified and that the land office were di-

(Deposition of James T. Barber.)

rected to issue final receipts, except where contests were entered?

A. No, sir, I don't think I ever heard of it until that time.

Q. At or about the time you commenced your operation in the Boise Basin, state as to whether or not there were other lumber interests, notably Governor Scofield of this State, and several others who were negotiating for the acquiring of these same lands or were said to be?

A. It was currently reported in the newspapers in Idaho, that Governor Scofield was organizing a syndicate for the purpose of controlling the timber resources of the Boise Basin, including those in the Basin. It was said that he had instigated a colony of settlers who had pre-empted certain lands on the south fork of the Boise River, and that his operations were going to be very extensive and practically control the *the* timber resources of the entire stream. In addition to that it was reported that Capt. Henry and Turrish were operating along the same line. This report came largely from Palmer as the correspondence shows. It seemed to be a lumber proposition that was attracting considerable attention at that time in the newspapers, and in the investigation of these different people.

Q. What if any effect, did the threatened competition of that kind have, Mr. Barber, in the manner of your proceedings there, particularly in the manner of taking titles?

A. Why, it brought home to us the necessity of

(Deposition of James T. Barber.)

moving under cover as much as possible, to keep our plans of operation from the ears of our competitors.

Q. I will ask you as to why the titles were taken in the name of Palmer instead of you and Mr. Moon when they were first bought from the entrymen?

A. Well, we thought it was necessary to take them in the name of some party other than an extensively recognized lumberman. I was generally known as a lumberman looking for a western proposition. Scofield knew it and Capt. Henry knew it, and we thought it better that the titles should be taken in some one less known in the lumber business.

Q. What effect did you think it would have if taken in the name of some one not a lumberman on the stone and timber entries?

A. It is a well known fact, that if a lumber company or a man recognized as a large operator was buying title, that the price would unavoidably be enhanced. You start out and buy fifty pieces of land from fifty different owners yourself, and any business man will take the precaution to take the titles, as he buys them given in different people's names and he will work in a guarded kind of a way, if he expects to get these pieces of property at a reasonable price.

Q. Did Gov. Steunenberg, who was under contract to buy these at a stipulated price share in that view of taking them in the name of one not known as an operating lumberman?

A. He did.

(Deposition of James T. Barber.)

Q. Mr. Barber, do you know or did you learn that some of the deeds which were taken in the Boise Basin were subsequently changed and new deeds taken for them? Did that matter come to your attention at one time? A. Yes, sir.

Q. Do you know why that was done; why it was said it was done?

A. My recollection of the matter is that we discovered as deeds began to arrive the actual consideration was not named in the deed. We objected to this and requested that new deeds be taken with the correct consideration stated in the deeds.

By Mr. BUNDY.—I offer a few letters bearing on the question of new deeds.

Q. I show you a letter taken from the files of the company marked 134. Is that a letter you received from Gov. Steunenberg? A. Yes, sir.

Q. Received July 30, 1902, is indicated by your stamp? A. Yes, sir.

By Mr. BUNDY.—We offer that letter in evidence. It reads:

“Caldwell, July 27, 1902.

Hon. James T. Barber,
Eau Claire, Wis.

My dear Sir: Immediately upon my arrival here today, I was handed wire from Mr. Palmer in which he protested against the consideration named in the deeds from timber entrymen. Now, the matter of consideration to be named in the deeds is one which I leave to the judgment and discretion of the entrymen and Mr. Kinkaid, and unless I receive explicit

(Deposition of James T. Barber.)

orders from you to name the exact amount, I do not want to interfere.

Very truly,

FRANK STEUNENBERG.

P. S. I can't take new titles in two cases without great annoyance.

F. S."

Q. At that time, Mr. Barber, had you learned that Gov. Steunenberg had employed Mr. Kinkaid, a local man there to assist him in purchasing land under his contract with you?

A. I learned it at some time; I don't remember when I learned it.

Q. Was Mr. Kinkaid employed in any manner by you? A. No, sir.

Q. Was he connected with it in any manner as you understood, except as assistant to Mr. Steunenberg? A. No, sir.

Q. I see in blue pencil at the top the words "Please return. Palmer." I will ask you if that letter was sent by you to Mr. Palmer?

A. I can't tell; it was sent to somebody with the request to be returned. I think it was sent to Mr. Palmer; I am quite sure it was.

Q. I show you a letter from the files of the company, 135, and ask you if that is a letter you received from Governor Steunenberg on the 29th day of July, 1902? A. Yes, sir.

By Mr. BUNDY.—We offer it in evidence, reads:

(Deposition of James T. Barber.)

Boise, Idaho, July 26, 1902.

Hon J. T. Barber,
Eau Claire, Wis.

My dear Sir: Mr. Palmer was here yesterday, returned to Spokane today. He left me a list of estimates on what we call scrip forties. There were 119 of these forties and he has rejected about 41 of them for the reason that each and every one does not have at least 320,000 feet pine. 10 of the rejections have from 260,000 to 320,000. I don't believe it wise to throw out any forty advantageously situated that has at least 250,000 feet, on it and again many of the accepted forties have far in excess of the 320,000 feet required, and I will advise him of your advice and wishes in this matter.

Also informs me as to when you can furnish the Scrip. I have not felt like laying any Scrip until the entries were out of the way. The last advices are that practically all have been released. I have taken nearly 50 titles to date. Mr. Palmer has 31 in his possession. I have held out 14 for the reason that entrymen had been assured that they would have privilege of making new deeds at later date. They don't want record to show that they had rushed off and sold at first opportunity, still as they wanted their money I didn't feel safe unless title passed, telling them they could make a new conveyance at later date.

The above mentioned about Scrip purchases is made for the reason that Messrs. Moon, Carson and Palmer agreed while here that that feature of the

(Deposition of James T. Barber.)

enterprise would be looked after by them. I neglected to state in the foregoing statement while discussing number of titles to say that the remainder of the 50 are in the hands of attorney, awaiting wife's signatures in most cases. Don't buy the scrip forthwith unless you can buy it right. I expect, however, to get it within a few weeks or just as soon as the remaining of the titles of entrymen are taken. Do not offer any of the deeds for record at this time for such action will stampede such of the entrymen as are yet to transfer. Kindly advise me as to your views on this feature, I have not as yet had a moment's time to consider the Company matter, but will do so at once,

Yours truly,

FRANK STEUNENBERG,

Caldwell, Idaho.

Q. Does that letter refresh your recollection as to Mr. Steunenberg's statement that someone had assured the entrymen that they would have to deed at a later date?

A. Yes, sir; I remember it as he states it there.

Q. Then that and the consideration seems to have been the two reasons why it was desired to take substantially all deeds in the name of Mr. Palmer?

A. Yes, sir.

Q. Did you know anything about the details which deeds he was referring to, did you pay any attention, Mr. Barber, to the buying and taking of conveyances from anyone?

A. No, sir.

Q. Did you have any knowledge of the subject,

(Deposition of James T. Barber.)

except when the deeds were sent to you by Mr. Palmer and you furnished the money through him for that purpose? A. None, whatever.

Q. I show you a book, Mr. Barber, letter-press, copy-book, marked Barber Lumber Company, Eau Claire, Wisconsin A. Is that a book in which the correspondence of the Barber Lumber Company was kept in whole or in part from the time of its beginning; beginning with July 28, 1902?

A. Yes, sir.

Q. Now, I show you on page 4 of the Barber Lumber Company copy-book, the copy of a letter and ask you if that is a copy of a letter you wrote to Mr. Steunenberg on or about that time?

A. Yes, sir.

By Mr. BUNDY.—We offer that in evidence.

“July 29, 1902.

Mr. Frank Steunenberg,
Caldwell, Idaho.

Dear Sir: I have your letter of the 26th. We recognize the fact that you have agreed to furnish 25,000 acres of timber land in Idaho, at cost not to exceed \$6.00 per acre, and in the aggregate not exceeding 140,000 dollars, and we have agreed to purchase the same from you. The title to this property to finally come to a corporation in which you are to have a one-fourth interest. It seems to me that you are certainly as much interested as any of us in securing as much timber for the money invested as possible, and if it is possible to secure land bearing more than 320,000 feet to the forty acre tract.

(Deposition of James T. Barber.)

In using Scrip you should be anxious to do this as we are. We are not going to dictate to you the details of the necessary transactions which are to culminate under the contract, but we caution you that whatever you do be sure that the aggregate comes within the terms of the agreement. Many of the quarter sections already past upon average less than 250,000 feet pine to the forty; at present Mr. Carson of Burlington and Mr. Palmer have the matter of using Scrip in hand, and I know that they will be ready to furnish all that will be required at a date as early as you will be able to use it. I have written Mr. Palmer with reference to recording the title he is now in possession of. In the matter of sending the notes sent you some time since, I would say that of course you need not send these notes after execution, directly to us unless you care to do so. You may forward them to any bank here in Eau Claire with instructions to deliver them to us in return for receipts sent by us, showing that we hold the 37,500 dollars stock in the Barber Lumber Company as collateral security for the notes.

Yours very truly,

JAMES T. BARBER, President."

Q. The notes therein referred to Mr. Barber, are the notes Mr. Steunenberg gave you to evidence the advancement you made to him for the one-fourth interest in the capitalization of the company, are they not? A. Yes, sir.

(By Mr. GORDON.)

Q. They were the notes that Steunenberg gave?

(Deposition of James T. Barber.)

A. Individual notes.

(By Mr. BUNDY.)

Q. I show you a letter on page 7 the copy-book of the Barber Lumber Company and ask you if that is a copy of a letter you wrote Mr. Steunenbergs on or about that date? A. Yes, sir.

By Mr. BUNDY.—We offer that in evidence. Reads as follows:

“July 30, 1902.

Frank Steunenbergs,
Caldwell, Idaho.

My dear Sir: I have your letter of the 27th about consideration named in deeds being made for lands to Palmer. The Law here and I presume it is the same there is to the effect that in the event the title to warranty deed fails, the vendor must pay the vendee the consideration named and interest on same. It seems to me that for the protection of all parties the actual considerations as nearly as practicable should be stated in the conveyances. We are not going to be arbitrary in this matter, but we do not want deeds to show consideration so small in money that some other consideration is apparent, or so great as to convey a wrong impression of the value of lands in that locality. I have written Palmer much as above.

Very truly yours,

J. T. BARBER.”

Q. Mr. Barber, do you know A. E. Macartany, of St. Paul? A. Yes, sir.

Q. He is the attorney for Mr. Carson, is he not?

(Deposition of James T. Barber.)

A. Yes, sir.

Q. And is attorney for the Barber Lumber Company?

A. Yes, sir; he has acted in that capacity.

Q. And acted as attorney for the company in its original Idaho matters? A. Yes, sir.

Q. Do you remember consulting Mr. Macartany with reference to this consideration named in the deeds? A. Yes, sir.

Q. I show you copy of letter on page 939 of the copy-book of the Northwestern Lumber Company, and ask you if that is a copy of a letter that you wrote Mr. Macartany? A. Yes, sir.

By Mr. BUNDY.—We offer that in evidence.

“August 4, 1902.

A. E. Macartany,
St. Paul, Minn.

Dear Sir: We are in receipt of deeds for 31 quarter sections, running from Palmer to Barber Lumber Company, and also conveyances from sundry parties to Palmer. In the latter deeds secured, as you know by Steunenbergs, consideration in every case is largely overstated, running from 1000 dollars to 2000 dollars per quarter section. Is there any danger in accepting these deeds? I expect to be in St. Paul on Thursday and want to see you if you are going to be in the city.

Yours truly,

JAMES T. BARBER.”

Examination adjourned to 1:30 P. M. of this day.

(Deposition of James T. Barber.)

Examination of Mr. Barber resumed at 2 o'clock P. M., of this day.

(By Mr. BUNDY.)

Q. Mr. Barber, I show you a letter taken from the files of the company, marked 226; is that a letter received by you from Frank Steunenber?

A. Yes, sir.

Q. And received at or about the time of its date?

A. Yes, sir.

By Mr. BUNDY.—We offer that letter in evidence:

“Boise, Idaho, May 29, 1903.

James T. Barber,

Eau Claire, Wis.

Dear Sir:”

By Mr. BUNDY.—The last paragraph is the only one I want to introduce.

“I wish that you would inform Mr. Moore that my list of titles—Basin, is not yet complete, as Mr. Kin-kaid who has been replacing some of them has not been here for nearly ten days. I will forward list immediately upon his return, which should not be later than Monday.”

Q. I suppose Mr. Moore, means Mr. Moon?

A. Yes, sir.

Q. I show you a copy of letter, page 160 of the Barber Lumber Company letter-book. I guess that is a copy of Mr. Moon's signature attached.

A. Yes, sir.

Q. Appears in the files of the company, does it not?

A. Yes, sir.

(Deposition of James T. Barber.)

By Mr. GORDON.—To whom?

By Mr. BUNDY.—To Steunenber.

“June 18, 1903.

Hon. Frank Steunenber,

Caldwell, Idaho.

Dear Sir: I have your favor of the 10th together with list of deeds in the Basin for which I thank you. The Crooked River deeds which you sent some time ago 49-78 came in due time. I note what you say with reference to recording deeds and see no objection to holding deed as you suggest. I see no particular objection to your getting new deeds to replace some of the old ones in the Basin if there is anything to be gained by it, except that all the land covered by these deeds has been redeeded to our company by Mr. Palmer. If you take new deeds of later date, please keep careful memorandum of them and let me know what they are, so we can get new deeds from Palmer. I am sending you by express to-day all of the Crooked River deeds, except numbers 2, 3, and 4 which run to Mr. Palmer, and which have been sent to him for the purpose of having him make deed to the Barber Lumber Company covering the same land. As soon as we get them back, I will forward them to you. Please have all of these deeds recorded. I have been delayed some in sending them to you, as I have been getting a deed from Mr. Rand covering the same land. Deed No. 1 runs to you and we should have quit-claim deed from you running to the Barber Lumber Company. You will notice on looking these deeds over that in numbers 23 and 24

(Deposition of James T. Barber.)

the description is not complete. It fails to say that one of the forties is in section 9. In numbers 32 and 52 there is no consideration mentioned, and number 54 bears no date.

All of these omissions should be corrected before the deeds are sent in for record. They should not bear date later than June 1st, as we already have deeds covering the same land from Mr. Rand."

Mr. Barber, I show you another letter on page 223 of the copy-book of the Barber Lumber Company; is that a copy of a letter and sent by Mr. Moon, secretary of the company? A. Yes, sir.

By Mr. BUNDY.—We offer it in evidence and reads as follows:

"September 3, 1903.

Hon. Frank Steunenberg,
Caldwell, Idaho.

By Mr. BUNDY.—I will only offer at this time the last paragraph.

"Please advise me as soon as convenient how you are getting along with recording the deeds and how soon we may expect the deeds returned to this office, also please advice me at once of any of the Basin deeds which had to be changed in any way, so that we may get a new deed from Mr. Palmer without any delay. I should think it wise not to change any of the deeds unless there is strong reason for doing so. I hope you will send your final report on the Basin portion as soon as you can possibly get it in shape."

Q. Mr. Barber, we have covered in this examination now to practically the close of the procuring

(Deposition of James T. Barber.)

of Basin deeds through the Governor Steunenberg contract, and taken up to about, the first of September, 1903; 1902, I believe you said you made your first trip to Boise, on August 31, 1902, and was there until some part of September; now when did you first learn of the fact that there was desirable timber in the district we spoke of as the Crooked River territory?

A. My recollection is that Mr. Steunenberg told us at the time we were out there in September, 1902, that there was quite a large body of desirable timber on Crooked River and tributaries of the north fork of the Boise River and lying directly east of the Boise Basin, that more or less timber had been cut on that river and floated to Boise for manufacture, and that he thought quite a large tract could be obtained with the Lieu Land Scrip that could be utilized in our proposed operations at Boise.

Q. What if any instruction or authority did you give Mr. Steunenberg?

A. We directed Mr. Steunenberg to have the matter looked into as soon as possible; the timber cruised and estimated, and to take steps towards the necessary information and the securing of the timber.

Q. By what means?

A. By Lieu Land Scrip. Where I say we in the matter, I mean Mr. Wm. Carson and myself, who were there together.

Q. Did Mr. Steunenberg afterwards employ someone to look over the land with the view of scripping it?

(Deposition of James T. Barber.)

A. Mr. Steunenberg reported to us in Eau Claire, that he had engaged a Mr. Taylor who was highly recommended to investigate the land, cruise it and estimate it. He reported that Mr. Taylor had gone to the land office and found that the land could be obtained by the use of scrip at that time, and had sent Mr. Taylor up for the purpose of getting information. This report came after our return. This statement of Steunenberg's that he had engaged Mr. Taylor.

Q. Mr. Steunenberg came to Eau Claire sometime later in December, 1902, didn't he?

A. Mr. Steunenberg either wrote us or telegraphed us that he was coming to Eau Claire; that he had important information with reference to the Crooked River timber land. He came here and reported that Mr. Taylor had gone onto the lands, made considerable investigation, and ascertained while on the land that timber and stone entries had been made, covering a large part of the most valuable timber, that Mr. Taylor had come on on obtaining this information and had been investigating the question at the land office, and found Mr. Taylor's information was correct, that these entries had been made at the time that Taylor had started to go up there, but the work in the land office was behind, and while they had records of these timber and stone entries at that time at the land office, they had not been transferred to the plats, which I believe govern these questions, and that the information that Taylor obtained that the lands were open to scrip, was not true. They

(Deposition of James T. Barber.)

were not subject to scrip when Taylor went up there.

Q. At that time did you have any knowledge or information of any timber or stone entries or filings made in the Crooked River country until it was reported to you by Governor Steunenberg at the time he was here in Eau Claire?

A. No, sir; we had none.

Q. That report which Governor Steunenberg made to you was based upon the report made to him by Taylor? A. Yes, sir.

Q. And that report was brought to Eau Claire by Governor Steunenberg?

A. Yes, sir; and delivered to us; we have it here.

Q. I show you a document which the stenographer has marked Exhibit "A," and I ask if that is the report brought to you by Governor Steunenberg?

A. Yes, sir; that is the report.

By Mr. BUNDY.—We offer that in evidence.

"Caldwell, Idaho, Dec. 5, 1902.

Hon. Frank Steunenberg,
Caldwell, Idaho.

Dear Sir: In pursuance of an agreement entered into with you on the 11th day of October, 1902, for the cruising of the north fork of the Boise River and its tributaries, I beg leave to report that I secured plats from the general land office which showed that the lands were all subject to entry; that I secured the services of a competent assistant and proceeded by rail stage and private conveyance to the immediate vicinity of the river. As the lateness of the season made it impracticable to keep pack animals in the

(Deposition of James T. Barber.)

timber, I hired a pack outfit at Kempatorer to pack my camp supplies to the most convenient place from which the work could be prosecuted and pitched camp in town 7 north, range 8 east, on Lost Creek, I cruised the timber on Crooked river which is a tributary of the Boise, and as I had charge of a tie camp there in '83 when ties were cut for the Oregon Short line, I was quite familiar with the country.

Crooked river is a good stream for floating logs as it carries a large volume of water in the early part of the season and would need very little improvement which could be done at the maximum cost of \$5000.00. I found that the valuable timber heaviest, covers between twelve and fifteen thousand acres and is principally yellow pine which will run about fifteen thousand feet per acre and is of excellent quality. I have been employed by the state for the past four years in selling, estimating and appraising timber in both northern and southern Idaho, have been actively engaged in the lumbering business in Michigan and I must say that I consider this an exceedingly fine body of timber. I found out accidentally from some parties I met on Lost Creek that there had been some considerable number of locations made in town 7 north, range 8 east, and knowing the parties personally, and knowing them to be reliable, I deemed it wise to suspend operations and make further investigation. I therefore left my assistant on the ground and proceeded to Boise City and after making further investigation found that while the plats showed that the

(Deposition of James T. Barber.)

land was subject to entry, it was located, but hadn't been checked up on the plats and that there was really no desirable timber left on surveyed land. I therefore got word to my assistant as soon as possible to pack camp and come in which he did.

Now, I believe that you will be very much disappointed at the turn matters have taken as you would have been able to secure a very valuable tract of timber, had the land been subject to entry, as we had every reason to believe; as the plats are supposed to be the final record. If I can assist you further in any way in this matter, I shall only be too glad to do so.

Respectfully submitted,

W. H. TAYLOR."

Q. Was Mr. Taylor's investigation and his final report to Governor Steunenberg the result of the instructions which you and Mr. Carson gave to Mr. Steunenberg to have the Crooked River country investigated at the time you were there in September?

A. Yes, sir.

Q. At that time or any time up to the time you say Taylor reported, did you know Mr. Barber, that any timber and stone entries or filings had been made in the Crooked River country?

A. No, sir.

Q. Had you any information prior to that at that time?

A. No, sir.

Q. In contemplation and expectation of finding timber in the Crooked River country which you could procure by the use of scrip? Did you make arrangements for the purpose of procuring scrip for that

(Deposition of James T. Barber.)

purpose?

A. Yes, sir; we made inquiry where we could get the necessary scrip, prices, etc.

Q. Mr. Barber, at the time Governor Steunenberg reported to you that the opportunity to procure scrip of the Crooked River country passed away with the entry of these stone and timber claims, did he give you any information as to ability to buy them, and if so, what; state fully what he said.

A. He said that Mr. Kinkaid had secured an option or some authority from the entrymen to sell these claims and that he, Steunenberg had an opportunity to buy them at a price not exceeding \$1000.00 a claim of 160 acres. He thought possibly they might be purchased for a little less than that, but that Kinkaid had told him, that unless prompt action was taken by the Barber Lumber Company, he was authorized and was going to start east for the purpose of interesting somebody in the purchase of this body of claims, and Steunenberg insisted that unless we did take very prompt action, Mr. Kinkaid would go on with his plans and we possibly would not be able to secure this desirable tract of timber.

Q. This information was given you by Governor Steunenberg at the time he was here in Eau Claire, and that was sometime in what month?

A. It was in December, 1902, I think.

Q. Now, up to that time had you had any negotiations with Governor Steunenberg or anybody else with reference to acquiring these lands by purchase?

A. No, sir.

(Deposition of James T. Barber.)

Q. Had you any estimate made or know anything about these lands at that time?

A. Not until Taylor's report was received. That was the first actual knowledge we had of this timber. This report Steunenberg brought at that time.

Q. At that time did you authorize and give Governor Steunenberg authority to send someone up to cruise the timber to see if you wanted to buy it, or did you authorize him to negotiate for it?

A. Either at that time or immediately following that time, we authorized Mr. Steunenberg to negotiate and purchase the timber from the entrymen and not exceeding \$1000.00 for each claim.

Q. With whom was these negotiations carried on at that end, with the entrymen themselves or somebody representing them?

A. I understood from Mr. Steunenberg's report that Mr. Kinkaid had an option or some kind of authority from the entrymen enabling him to negotiate all or practically all of the entries at one time.

Q. And are these the entries which are referred to in the correspondence as the Kinkaid entries?

A. I don't recollect. Think they were commonly called the Crooked River entries. We may have referred to them as the Kinkaid entries.

Q. Did Governor Steunenberg afterwards report that he had negotiated with Kinkaid?

A. He reported the purchase of them from time to time.

By Mr. BUNDY.—I want to put in some letters relative to the Crooked River country so called.

(Deposition of James T. Barber.)

Q. I show you a letter marked 169, Mr. Barber, taken from the files of the company, and ask you if that is a letter you received from Governor Steunenberg? A. Yes, sir.

Q. Indicating by your stamp that it was received Jan. 23, 1903? A. Yes, sir.

By Mr. BUNDY.—We offer this letter in evidence.

“Boise, Idaho, Jan. 19, 1902.

J. T. Barber, Esq.,

Eau Claire, Wis.

My Dear Sir:”

By Mr. BUNDY.—I am beginning at the bottom of page 2 and the only part relating to this reads as follows:

“Mr. Taylor has been confined to his bed the past week, but will be here to-night when I expect to conclude arrangements with him to cancell the Crooked River entries and make such estimates as will guild him in negotiating for the same. Have succeeded in sealing down the price to \$950.00 per entry. Don’t feel I can do any better but have not closed, I have \$900. Send you this express map of Boise and vicinity as per your request. Will keep you informed of operations as they develop.

Very truly,

FRANK STEUNENBERG.”

By Mr. BUNDY.—That letter is dated January 19, 1902. A. 1903.

Q. 1903? Up to that time neither you nor the Barber Lumber Company had closed any contract for the purchase of timber on Crooked River in any

(Deposition of James T. Barber.)

manner? A. No.

Q. Up to that time it was simply negotiated upon between Gov. Steunenberg acting for the company and the entrymen through Mr. Kinkaid as you understood? A. Yes, sir.

Q. That letter is just a little out of place. I started at 169 instead of 159. I show you a copy of letter Mr. Barber, on page 32 of the Barber Lumber Company letter-book; is that a copy of a letter you wrote and mailed to Mr. Steunenberg?

A. Yes, sir.

By Mr. BUNDY.—I offer that letter in evidence.

“Eau Claire, Dec. 8, 1902.

Hon. Frank Steunenberg,

Caldwell, Idaho.

Dear Sir: I have your letter of the 6th. Am more than surprised at the foolish action taken by Scofield in the matter of publicity. They surely are not serious in their intentions or they would avoid newspaper notariety. I hand you herewith copy of our letter to Mr. Bancroft, and also his reply, and I enclose my letter to him to which I have received no answer. This Scofield business makes it necessary to push action along the Boise River proper and Mr. Taylor's report should be secured at once and our available scrip used to the best advantage in that locality. Has anything been done looking toward the offer for the sale of state land in the Basin along the lines suggested by you? Is it not true that the season is now so far advanced that no work can be done in the way of estimating in that part of the

(Deposition of James T. Barber.)

country before spring? You keep us thoroughly posted of developments for our interests in that section.

Yours truly,

JAMES T. BARBER."

Q. I now show you a telegram taken from the files of the Company and ask you if you received that from Mr. Steunenberg on Dec. 22, 1902?

A. Yes, sir.

Q. Being marked 164 which we offer in evidence.

"Spokane, Wash. Dec. 21, '02.

J. T. Barber,

Eau Claire, Wis.

Start to-night. Have important information concerning north fork.

FRANK STEUNENBERG."

Q. I now show you a copy of a letter on page 49 of the Barber Lumber Company copy-book; is that a copy of a letter you wrote and mailed to Mr. Wm. Carson on or about that date? A. Yes, sir.

By Mr. BUNDY.—We offer that letter in evidence.

"Eau Claire, Jan. 2, 1903.

My dear Mr. Carson:

I am in receipt of your letter of the 29th and note your suggestion as to having the north fork of the Boise River carefully examined to ascertain how far up the river it is drivable. Of course, there can be no question on this point from the mouth of Crooked river on which stream most of the Kinkaid entries are made. As it has been successfully driven from

(Deposition of James T. Barber.)

this point, every year for the past four or five years, and there is now a logging camp near the mouth of this Creek, putting logs in the river. I find my self blocked in securing the services of a reliable estimator. The only man being immediately available is Mr. W. H. Taylorm who was the man recently sent up the river by Governor Steunenberg, and who returned on finding the country occupied by settlers. This man obtained information from other sources then Governor Steunenberg and has been employed for several years estimating for the state of Idaho, and it is upon his estimates that nearly all the timber in Idaho is being sold. His experience was obtained in Michiga, and he is represented as being honest and reliable with a good knowledge of Idaho timber. We might possibly secure the services of John Pearson of Duluth, about whom we have all heard a good deal, after the first of February, but the question is raised in my mind whether it would be desirable to put a man identified with Turrish and Warehouser in a position to gain as much information about our affairs as he would pick up in doing this work for us. The work will not begin until after January 6th, and if you know of anybody more desirable than Taylor, let me know at once, and I will arrange to have him substituted. It would hardly be worth while to have Taylor examine Crooked Creek and the north fork as their being good drivable streams as he stated in his report which I sent to you, that he is familiar with that country and that Crooked Creek is a good

(Deposition of James T. Barber.)

stream for floating logs, etc. The Governor can find dozens of men in Boise who have driven logs on the north fork from above the mouth of Crooked Creek. The mills have latterly received a large portion of their supplies of logs from this section, stolen of course from Government land. I received under another cover, all the documents sent you and presume you didn't care to retain them longer. You certainly could have held them as long as you desired. One object in returning them here being to have them filed with other papers. Kindly let me know when you intend to go to Chicago? I will very likely see you there as I am now expecting daily a communication from Camel with reference to the subject of our interview with him. I extend your congratulations to Mr. Moon and promise he will make due acknowledgment.

Yours truly,

J. T. BARBER."

Q. What Mr. Camel was that?

A. He was an assistant to Mr. J. C. Stubb. He represented the Harriman railroad interest in the west, located in Chicago.

Q. The same Mr. Camel Mr. Palmer told you about?

A. No, sir, our dealings with this Mr. Camel were entirely with reference to securing rates on facilities when we began development and the manufacture and shipment of lumber from Washington.

Q. I show you a letter on page 48 of the Barber Lumber Company book; is that a copy of a letter

(Deposition of James T. Barber.)

you wrote and mailed Governor Steunenber?

A. Yes, sir.

By Mr. BUNDY.—We offer that in evidence. It reads:

“Eau Claire, Dec. 29, '02.

Hon Frank Steunenber,
Caldwell, Idaho.

In making the deal with Mr. Kinkaid, have the deeds to run to A. E. Palmer the same as the other lands you have been buying for us. We are exceedingly anxious to have everything pertaining to the Barber Lumber Company's plans pushed with all the energy possible from now on. This applies particularly to the obtaining of options upon the property we have considered as desirable for a mill site. As soon as the weather becomes sufficiently settled out there so as to make it comparatively easy to inspect the river and adjacent lands between the canyon above Boise and the canyon beginning at or near Caldwell.

Please let us know and we will visit Boise and make the examination.

Yours truly,

J. T. BARBER.”

Q. Now, I show you copy of a letter found on page 51 of the Barber Lumber Company book. Is that a copy of a letter mailed and written by you to Governor Steuneber?

A. Yes, sir.

By Mr. BUNDY.—I offer that in evidence. It reads as follows:

(Deposition of James T. Barber.)

“Eau Claire, Jan. 6, 1903.

Hon. Frank Steuneberg,
Caldwell, Idaho.

Dear Sir: We of course are much interested in learning what action you took with Kinkaid, and also Mr. Bradley with reference to securing option on our proposed mill site. Kindly keep us informed on everything you do promptly. I believe that there is a blue print map of the City of Boise and if you can obtain a copy, please do so and forward to us here as soon as you conveniently can. Will you have Thornton or Downs or somebody else who is familiar with men who have driven the river from the mouth of Crooked River to Boise, Get all the detailed information with reference to the difficulties in the way of driving; number of men used on the drive and the quantity of logs the crew stated can conveniently handle. Any and all information with reference to the driving of saw logs on this reach of river, will be very interesting and valuable to us.

Yours very truly,

JAMES T. BARBER.”

Q. That is a letter that is dated January 6, 1903? At that time had you or the company closed any arrangement; had you any contract or understanding with any person by which you were to buy timber and stone entries in the Crooked River country?

A. No, sir.

Q. I show you a letter taken from the files of the company, marked number 168; is that a letter you received from Governor Steunenbergh on January 22,

(Deposition of James T. Barber.)

1903? A. Yes, sir.

By Mr. BUNDY.—We offer that letter in evidence. It reads:

“Boise, Idaho, Jan. 17, 1903.

Hon. J. T. Barber,

Eau Claire, Wis.

Dear Sir:”

Beginning at the second paragraph, second page:

“Governor Scofield is here accompanied by General Mullen of Oconto, Wisconsin. Scofield told me he was going to start his son George in the lumber manufacturing business here. He had been in the newspapers again promising some additional news with reference to his operations within a week. I learned today from a real estate man that Scofield had taken an option on what is known as the Hammer tract. This tract joins the Goodwin saw mill site on the up river side. Some of his, Scofield’s crowd here, had been making overtures to some of the Crooked River entrymen. While I don’t believe he is ready to buy, the work his crowd is doing is very annoying as the entrymen are pushing Kinkaid to take their claims, thinking that he, Kinkaid, is doing business with and for Scofield. Quite a number of the entrymen have made final proofs and final certificates have issued. I am endeavoring to arrange with Taylor by telephone to come to Boise at once and start the cruising. I will write you immediately upon closing with him. The other information mentioned in your several letters will receive my prompt

(Deposition of James T. Barber.)

attention, and I will forward the same as rapidly as obtained.

Very truly,

FRANK STEUNENBERG.

P. S. In case I take deeds for Crooked River claims soon, how shall I get money? I understand that Palmer is still in Canada and I may need a big bunch of cash on short notice.

F. S."

Q. Up to that date, January 17, 1903, had you closed or entered into any agreement to purchase any or all of the timber and stone claims on Crooked River? A. No, sir.

Q. I show you a letter taken from the files of the company, marked 168½; is that a letter received by you from Governor Steunenberg? A. Yes, sir.

Q. Received on January 22, 1903?

A. Yes, sir.

By Mr. BUNDY.—We offer that letter in evidence.

"Boise, Idaho, Jan. 18, 1902."

With the stamp mark that it was received January 22, 1903.

"J. T. Barber,

Eau Claire, Wis."

Beginning with middle of third page:

"Now the question is what importance shall we attach to Scofield and his work here, so far as apparent conditions are concerned he is at work in earnest to entrench himself in every way except as to the purchase of timber. The only move he has made

(Deposition of James T. Barber.)

in this direction was as I outlined yesterday, namely; some of his crowd 'local grafters' are making overtures to the Crooked river entrymen. His Fall Creek operation is in charge of a man from your country named, George Lake, the latter and another man who I take to be a cruiser are here at the hotel. Mul-len asked my brother whether he could get what he termed a preliminary franchise from the state. He said he would buy this, that while they had a man here all the past year investigating the stream, Boise river and its tributaries, still when it came to actual improvement, they might want to shift their works two or three miles up or down the river as conditions would demand. Now I dislike to have to spend money to protect ourselves, especially from the hot air methods of Scofield, but these people here do not know of his financial standing, and until he is called to a show down, they are quite likely to give him every facility to promote his enterprise. Such instructions as you gave, I will carry out to the best of my ability.

Yours truly,

FRANK STEUNENBERG."

Q. I show you a letter taken from the files of the company, marked 169; did you receive that letter from Governor Steunenberg on or about that date?

A. Yes, sir. On January 23, 1903.

By Mr. BUNDY.—We offer it in evidence.

(Deposition of James T. Barber.)

“Boise, Idaho, Jan. 19.”

He again has it 1902.

“J. T. Barber, Esq.,
Eau Claire, Wis.

My dear Sir”:

The last of second page and balance of letter we offer:

“Mr. Taylor has been confined to his bed the past week, but will be here to-night when I expect to conclude arrangements with him to visit the Crooked River entries and make such estimates as will aid him in negotiating for the same. Have succeeded in securing a price of \$950.00 per entry. Don't expect I can do any better, but have not closed. I have offered \$900.00. Send you this express, map Boise and vicinity as per your request. Will keep you informed of operations as they develop.

Yours truly.”

Q. I show you a copy of letter found on page 58 of the Barber Lumber Company's book; is that a copy of a letter you wrote Gov. Steunenberg?

A. Yes, sir.

By Mr. BUNDY.—I offer that in evidence.

“Eau Claire, Jan. 20, 1903.

Hon. Frank. Steunenberg,

Caldwell, Idaho.

Dear Sir: Your telegram from Boise on the 18th was received, and with immediate answer directing you to take any necessary action to protect our interests in the Boise river at all hazards; the writer was called to St. Paul Monday morning and tele-

(Deposition of James T. Barber.)

graphed you again saying we would depend upon you to look after our interest in matter of river franchises and mill site options. Our affairs along Boise River seem to have reached a crisis, and we want you to assume the responsibility of making application for the appropriation of whatever rights and facilities the state is able to grant along the Boise River, including tributaries, and we also must again impress upon you the necessity of getting the control of the mill site proposition.

Mr. Moon is writing you today about the state timber, and I trust you will use all possible dispatch in securing control of the timber offered through Kinkaid.

We are anxiously looking for letters from you, fully describing the situation.

Yours very truly,

J. T. BARBER."

Q. I show you a letter taken from the files of the company, marked 172 and ask you if that is a letter received from Governor Steunenberg on Jan. 26, '03?

A. Yes, sir.

By Mr. BUNDY.—We offer that letter in evidence.

"Boise, Idaho, Jan. 21."

And he has again dated it 1902.

"J. T. Barber,

Eau Claire, Wis.

My dear Sir: Taylor departed from Crooked River this morning. I made 10 random selections from the entries for him to estimate. Expect him back

(Deposition of James T. Barber.)

in about two weeks. I arranged to meet him and Downs yesterday, and we talked the Crooked river tract quite thoroughly. Downs is quite pronounced in his statement that the timber there is better than in the Basin. Taylor was disposed to agree with him, but qualified his view by saying that his observation of the Basin timber was confined to the highways and trails and in cruising. I had Taylor mingle with many of the loggers here who have worked the north fork. His main information was obtained from a man by the name of Jack Works, Taylor having known him for many years. Works says the only work on north fork will be to blast out boulders in the center of the stream. The only trouble they have had being an occasional center jam. Works thought a comparatively small sum would put the north fork in good driving condition. I asked Downs the sources of his information as to the north fork, and he told me he had investigated every foot of the stream himself, and took with many who had worked on the different drives. His information comes from a man named Frank Ross, who has banked and taken out several drives for local mills. Ross told Downs that a drive for one of the local mills hung up on the lower river one year for the reason that they failed to put it in in time, and by the time they got it out near Boise, or the lower river, the water had gone down for the season. The removal of a few boulders will make the north fork easy says Ross. There are no flats or slews.

I have crossed this river many times in April at

(Deposition of James T. Barber.)

its mouth, and it discharged a great volume of water.

Downs visited the Fall Creek tract last August. As he found it unsurveyed and squatters there to great number, he didn't inspect thoroughly. He said he met a man by the name of Banister there, and that the latter told him there were about two hundred million on the Creek. Downs says that each of the squatters has marked out a homestead and timber and stone claims. There is about three miles of canyon filled with lava rock between the timber and the river. Almost every rod of the canyon will have to be worked before it can be logged. Scofield is conducting his operations on this Creek.

Yours truly,

FRANK STEUNENBERG.

Yes, Don't fail to instruct me how to proceed financially with Crooked river in case I take it.

F. S."

Q. Mr. Barber, up to date Jan. 21, 1903, had you as yet authorized Governor Steunenberg to buy Crooked river entries, or made any arrangements to buy them?

A. No, sir; why we authorized Governor Stunenberg to negotiate for them.

Q. Had they terms at that time for their purchase? A. No, sir.

Q. I show you copy of letter on page 63 of the Barber Lumber Company book *book*; is that a copy of a letter written and mailed to Governor Steunenberg? A. Yes, sir.

(Deposition of James T. Barber.)

By Mr. BUNDY.—We offer that in evidence. It reads:

“Eau Claire, Jan. 22, 1903.

Hon. Frank Steunenberg,

Boise, Idaho.

Dear Sir: In the matter of Kinkaid lands I would say, that if you are satisfied that Downs has estimated them fairly and a point can be made by taking in eight or ten of them without waiting for Taylor, you are at liberty to do so, and have Taylor estimate them as fast as possible. You can draw on us for money required for these and other purposes. We think you should retain Mr. Borah. Have wired you to that effect and should take all preliminary steps to secure franchises covering the Boise River and its tributaries. We do not know what is necessary, but you may say that we are prepared to spend fifty thousand dollars to make these streams drivable and in driving facilities for handling and sorting logs.

Yours truly,

JAMES T. BARBER.”

Q. Now, Mr. Barber, what land was referred to there as the Kinkaid land?

A. That was the Crooked River tract.

Q. What is referred to by saying that you were taking in a few on Downs' estimates if he was satisfied with it, but to have Taylor estimate them as fast as possible?

A. The information came to us that Mr. Downs had located these entries and necessarily in the locat-

(Deposition of James T. Barber.)

ing of them he had to a certain extent cruised and estimated the different entries and in that way had obtained, of course, a good deal of knowledge with reference to how much timber there was on each individual claim. In fact, my impression is that the entrymen may have had estimates which they claim were made at the time they were located. It was not particularly applicable to that tract; what entrymen usually have.

Q. What was the purpose of directing Stunenberg to have Taylor estimate the land?

A. So as to be sure we were getting timbered lands, not bald mountains that had been entered for the purpose of getting some money out of us.

Q. Was it your plan to have them estimated by Mr. Taylor with a view of determining as to whether or not you wanted to buy them? A. Yes, sir.

Q. So at that time you hadn't determined whether you wanted to take the Crooked River tract or not?

A. No, sir.

Q. That date being Jan. 22, 1903, I now offer letter found in the files; I show you letter found in the files, marked 175; is that a letter received by you from Governor Steunenberg on Jan. 30, 1903?

A. Yes, sir.

By Mr. BUNDY.—We offer that letter.

“Caldwell, Idaho, Jan. 26.

Hon. J. T. Barber,

Eau Claire, Wis.

Dear Sir:”

This is all about millsite, except the last paragraph which I offer:

(Deposition of James T. Barber.)

“In your letter to-day, you didn’t tell me how to proceed with the finances, provided I closed for the Crooked river tract. This may be of some importance as about fifty of the entrymen have their final certificates. I go to Boise again this afternoon.

Very truly,

FRANK STEUNENBERG.”

By Mr. BUNDY.—I don’t offer anything but the last paragraph, all the rest relates to something else.

Q. I show you letter taken from the files of the company, marked 183; is that a letter received by you from Governor Steunenberg at or about its date?

A. Yes, sir.

By Mr. BUNDY.—We offer this in evidence which reads:

“Boise, Idaho, Feb. 3, 1902.”

He has this one again 1902; it should be 1903. I offer the letter beginning with paragraph 2:

“I have taken one title on Crooked river but think more will be necessary right soon, probably to-morrow. A local attorney here named Tiptan, present assistant U. S. Attorney, is at work among the entrymen offering quite a considerable advance over the Kinkaid arrangements. Thus far he has only requested options, am anxiously awaiting Taylor’s return. Three feet of new snow has fallen in the mountains since he left two weeks ago to-morrow. A miner from Edna brought the news that he, Taylor laid out one night on the Moore’s Creek summit. The new snow being a great depth and soft, makes snow shoeing difficult.

FRANK STEUNENBERG.”

(Deposition of James T. Barber.)

Q. Mr. Taylor made another trip into the Crooked River after the first one he made in search of scrip land? A. Yes, sir.

Q. And you subsequently bought the Crooked River land on his recommendation?

A. Yes, sir.

Q. I show you a letter taken from the files of the company, number 184; is that a letter received by you Feb. 17, 1903? A. Yes, sir.

“Boise, Idaho, Feb. 12, 1903.

Hon. J. T. Barber,

Eau Claire, Wis.

My dear Sir:”

First page is all millsite, and beginning at the top of page three reads:

“Commenced buying Crooked river yesterday morning. Have taken about thirty up to to-night. There is an adverse interest in the field that is causing some trouble, some of the entrymen have gone into a pool and will not sell.

Local grafters are at the bottom. Hope to be able to keep the pool down to ten claims. Will write you all the details as soon as I secure reliable information. Have drawn on you for \$20,000.00, I may ask you by wire tomorrow to wire me \$20,000, as the banks here might not be able to handle the business as quickly as I want the money.

Very truly,

FRANK STEUNENBERG.”

Q. Mr. Barber, was that the first money sent by you or Mr. Moon or the Barber Lumber Company to

(Deposition of James T. Barber.)

the State of Idaho for the purpose of buying titles in the Crooked River country? A. Yes, sir.

Q. Now, I want to offer an entry, being the first entry of the ledger of the Barber Lumber Company in account with Frank Steunenberg. Ledger entry being as follows:

“March 31, 1903, to cash \$65,000.00. Reference to cash book page 5, we offer entry on page 5 which reads as follows: Frank Steunenberg Feb. 18, 1903 to your draft on us \$20,000.00, Feb. 20, 1903 to your draft on us \$25,000.00. March 23, 1903, to your draft on us \$20,000.00. Total \$65,000.00.

Q. Mr. Barber, can you tell without reference to letters what these three drafts were sent for?

A. Sent to pay for the purchase of Crooked River lands timber.

Q. I now show you letter taken from the files of the company, marked number 185; is that a letter received by you from Governor Steunenberg, Feb. 18, 1903? A. Yes, sir.

By Mr. BUNDY.—We offer that letter in evidence, which reads:

“Boise, Idaho, Feb. 13, 1903.

Hon. J. T. Barber,

Eau Claire, Wis.

My dear Sir”:

Eliminating the first two paragraphs, it reads as follows:

“I have not been able to proceed as rapidly in the purchase of titles on Crooked river as had been my intention. Kinkaid represented for the last month

(Deposition of James T. Barber.)

that the situation was critical, and that there has been considerable scurrying to and fro on the part of grafters and other interests that want to gain a foothold in that section. Up to the present time my investigation of the adverse interests leads me to the conclusion that they have no matured plans in mind, but that they wanted to get a group of claims and then endeavor to procure a sale. I think we have everything well in hand and know we control the situation. We have drawn on you again today through the Commercial Bank at Caldwell for \$25,000.00. I have not received a report today at the time of this writing as to the title, as to the amount of title taken. Will send you that information later.

Very truly,

FRANK STEUNENBERG.

P. S. I neglected to say at the start that a jurat has been taken on each of the options; I didn't give that portion of them."

Q. What does that postscript refer to?

A. It refers to options on various pieces of land we were trying to secure for the millsite near Boise.

Q. I show you a letter from the files of the company, marked 186. Did you receive that letter from Governor Steunenberg on Feb. 19, 1903?

A. Yes, sir.

By Mr. BUNDY.—We offer that in evidence.

"Boise, Idaho, Feb. 14, 1903.

J. T. Barber,

Eau Claire.

Dear Sir: Just taking train for home. Am in-

(Deposition of James T. Barber.)

formed by Kinkaid that combine is broken and he is taking titles of the affected ones.

Have taken 33 titles on Crooked river up to this morning.

Hastily,

FRANK STEUNENBERG.

Q. I show you a copy of letter in the copy-book of the company on page 76; is that a copy of letter you wrote to Mr. Steunenberg? A. Yes, sir.

By Mr. BUNDY.—We offer that letter in evidence, which reads as follows:

“Eau Claire, Feb. 17, 1903.

Hon. Frank Steunenberg,

Boise, Idaho.

Dear Sir: Am sending you today by express 83 deeds running to A. E. Palmer together with receiver's receipts, all for record. In the absence of Mr. Moon, these are all the deeds I am able to find and presume it covers the whole transaction in the Basin up to the present time including, I think, some ninety entries. I am in receipt of your letter of the 12th and note that you have finally succeeded in securing an option from Caston, and am waiting anxiously the arrival of a copy of the document as I am somewhat apprehensive as to its contents objected to by Mr. Haines.

I am a little worried over the combination of the entrymen, your holding titles on Crooked River, so long as there are but very few included in this, it is immaterial, but if it becomes general at all, it may be serious. Are you sure that your friend Kinkaid

(Deposition of James T. Barber.)

is not at the bottom of this? Note what you say about money matters and will honor your draft as it appears. Have nothing new to report from this end of the line.

J. T. BARBER."

Q. I now show you a letter taken from the files of the company marked 188 and ask you if you received that letter on Feb. 24, 1903?

A. Yes, sir.

Q. From Governor Steunenberg?

A. Yes, sir.

By Mr. BUNDY.—We offer that in evidence.

"Boise, Idaho, Feb. 18, 1903.

J. T. Barber,

Eau Claire, Wis.

My dear Sir: Have taken 53 titles on Crooked river to date. The adverse movement here, didn't last long after we commenced buying, but it was sufficient to cause some apprehension. The parties in the movement represented that they were backed by New York capital, and that the same outfit had purchased many thousands of acres in Oregon within the last two years. They went so far as to send a man in there (Crooked River.) He came out a day or so behind Taylor. I think the man who went in is named McMilland. He comes from Roseburg, Oregon. If you know of any land operator there, you may be able to locate him and his crowd."

Q. Mr. Pearl, was one of the men from whom you bought part of your millsite?

A. Yes, sir.

Q. Mr. Caston was another?

A. Yes, sir.

(Deposition of James T. Barber.)

Q. And Mr. Drake, I believe a third?

A. I think so.

Q. And Mr. McMahon a fourth?

A. Yes, sir.

Q. And these were all bought in the first instance on option? A. Yes, sir.

Q. And the reference to Pearl option and Caston option refers to the millsite? A. Yes, sir.

Q. You never procured any options on timber and stone claims? A. No, sir.

By Mr. BUNDY.—This letter is signed. “Yours truly, Frank Steunenberg.”

Q. I show you a letter taken from the files of the company and ask you if you received that from Governor Steunenberg on the 20th day of March, 1903?

A. Yes, sir.

By Mr. BUNDY.—We offer letter 204 which reads as follows:

“Caldwell, Idaho, March 16.

Dear Mr. Barber.

I wrote you from Boise last night that I would draw on you that day for \$10,000.00. My intention was to go home that evening, but some features of the Boise situation held me there until yesterday. I am drawing on you today for \$20,000.00, as I didn't draw for the \$10,000.00. Have taken sixty titles on Crooked river. Expect to call Mr. Taylor here in a day or two to settle or proceed to file regarding further entries.

Your truly,

FRANK STEUNENBERG.”

(Deposition of James T. Barber.)

I show you letter from files of the company, number 209. Is that a letter you received from Governor Steunenberg on April 6, 1903? A. Yes, sir.

We offer that letter in evidence.

“Caldwell, Idaho, April 3, 1903.

James T. Barber,

Eau Claire, Wis.

Dear Sir: By express today I send 71 titles for Crooked river purchases. The first four I took before you came on in order to hold the situation. One or two of them run to me and some to Mr. Palmer. The balance of them run to Mr. Rand. I will deed those of them in my name when you desire. A brief (not complete) financial statement follows:

Receipts:

Drafts received \$65,000.00

Disbursements:

71 titles at \$950.00—\$67,450.00.

Options:

Caston, Diake, Bedal and McMahon \$1000.00.

Borah account \$350.00.

Total \$68,800.00.

I have unsettled accounts with Taylor, Stevenson, the engineer and some personal expenses. Have been unable to get these out together, but think the total will not exceed \$400.00 or \$500.00. Am drawing on you for \$10,000.00 to take care of over draft and April (est.) items.

Very truly,

FRANK STEUNENBERG.”

(Deposition of James T. Barber.)

Q. What is meant Mr. Barber, by April est. items?

A. The interpretation that I put upon that is an estimate of the number of titles, he would buy in April. He didn't know but that there were a few more, and he was drawing for enough that he estimated he would get in that month.

Q. This Bedal option?

A. That is a millsite, affair. Mr. Stevenson was a local engineer that served at our millsite there.

Q. Mr. Barber, this first item made by Governor Steunenberg to you accounted to you for any of the money which had been sent directly to him or which had been paid to him by Mr. Palmer, was it not? On any account; that was the first statement made, was it not of his disbursements?

A. I am not familiar with that.

Q. Now, practically all of the large majority of these Crooked River entries were bought during the first month after they commenced buying in February and March, 1903? A. Yes, sir.

Q. And at that time practically all the Basin titles you ever took were taken in?

A. With the exception of 6-4.

Q. Was that about March or first of April, '03, during that summer, there was not very much doing in the purchase of timber in Idaho?

(No answer.)

Q. I show you copy of telegram on page 260 of the Barber Lumber Company book; is that copy of a telegram you sent Steunenberg?

(Deposition of James T. Barber.)

A. Yes, sir.

By Mr. BUNDY.—We offer that in evidence. It reads:

“Eau Claire, Wisconsin, September 28, 03.
Hon. Frank Steunenberg,
Caldwell, Idaho.

Can not pay your draft until you wire reasons for drawing.

BARBER LUMBER COMPANY.”

Q. I show you a telegram taken from the files of the company, marked 274 is that a telegram received by you from Governor Steunenberg in answer to the last telegram offered in evidence?

A. Yes, sir.

By Mr. BUNDY.—We offer that in evidence.

“Boise, Idaho, Sept. 28-29, 03.
Barber Lumber Company,
Eau Claire, Wis.

Money was needed account Crooked river titles. First National Fund exhausted. Letter.”

Q. Mr. Barber, what was meant by First National Fund?

A. Why, the money we sent him was deposited in the First National Bank of Idaho at Boise. It must refer to the balance in the bank.

Q. Some of the money seems to have been sent on his drafts; was \$50,000.00 deposited to his credit in the First National Bank at Boise? First National Bank of Idaho?

A. I have no clear recollection of that detail.

By Mr. BUNDY.—I offer in evidence the account

(Deposition of James T. Barber.)

of Frank Steunenberg found on page 3 of the ledger of the Barber Lumber Company, and particularly the item dated June 30, 1903. "To cash fifty thousand dollars," referring to cash book page 7, and I offer entry on page 7 of the cash book as follows: "Frank Steunenberg, Jan. 23,-03, deposited to your credit fifty thousand dollars."

Q. I show you copy of letter page 502 of copy-book of Barber Lumber Company; is that a letter you wrote Mr. Chapman on or about that date?

A. Yes, sir.

Q. It reads:

"Eau Claire, Nov. 16, 04.

Replying to your of the 12th, would say that the understanding between Governor Steunenberg and ourselves with reference to claims in the Crooked River district was a verbal one, and we think it has been fully complied with, so far as we are concerned."

By Mr. GORDON.—That is objected to as incompetent, irrelevant and immaterial.

(By Mr. BUNDY.)

Q. I show you letter from files of the company and ask you if that is a letter received by the company Oct. 12, 1903, with your notation at the bottom?

A. Yes, sir.

By Mr. BUNDY.—We offer that letter in evidence, number 281.

(Deposition of James T. Barber.)

“Caldwell, Idaho, Oct. 9, 03.

S. G. Moon,

Sec'y. Barber Lumber Company,
Eau Claire, Wis.

Dear Sir: Am drawing on you today for \$13,000.00 (separate drafts) of which \$10,000 is needed to take up Crooked river title soon, and \$3,000.00 for Basin titles. Have submitted draft of my Basin report to Mr. Chapman and have explained same to him to his satisfaction. Have also gone over situation as to Basin and Crooked river purchases covered by above drafts and same meets his approval, notice of which he has no doubt given you.

Very truly,

FRANK STEUNENBEFG.

P. S. Will be in Boise to morrow to meet Mr. Hughes.”

Notation at bottom: “Wrote Lawrence we would pay draft.

J. T. BARBER.”

Q. Lawrence was L. G. Chapman?

A. Yes, sir.

Q. That Mr. Hughes therein referred to was representative of the Northern Pacific Railway, who was going to Boise at that time to place some scrip which you had purchased from the Northern Pacific Railway Company? A. Yes, sir.

Q. Some time subsequent to that you did place some unsurveyed scrip which you did purchase from the Northern Pacific Railway Company, did you not?

A. Yes, sir.

(Deposition of James T. Barber.)

Examination adjourned to May 12, 1909, at 9:30 A. M. at this office in the City of Eau Claire, Wisconsin.

9:30 A. M., May 12, 1909, examination resumed.

(By Mr. BUNDY.)

Q. Mr. Barber, I show you plat book, printed on cover N. W. Lumber Company, marked Plaintiff's Exhibit 141A," and having the file mark of the clerk of the United States Circuit Court, showing it was filed March 11, 1909; will you kindly look over that book at your leisure and particularly with reference to the plat showing lands in town 6 range 4. You notice on page 7 of the book there is a plat of town 6 north, of range 4 east, on which there are a lot of red ink lines straight lines, dots. A. Yes, sir.

Q. I will ask you as to whether or not those dots or dashes on there were made by you.

A. They were not.

Q. Did you ever see them before?

A. I never did.

Q. Are there any marks or indications on that page with reference to 6-4 in your handwriting?

A. No, sir.

Q. Are there any in the book in your handwriting? A. No, sir.

Q. Do you know Mr. Gust D. Hosely, formerly of Neillsville, this State? A. Yes, sir.

Q. Do you recollect that Mr. Hosely made a flying trip to Idaho some time in the summer of 1903, to look the country over at your request?

A. Yes, sir.

(Deposition of James T. Barber.)

Q. Do you recall that after his return here from his first trip, you wrote him in Neillsville to come up here to discuss the question of employment with him? A. Yes, sir.

Q. I show you letter on page 217; copy of letter in the letter-press copy-book of the company and ask you if that is a copy of a letter you wrote him.

A. Yes.

By Mr. BUNDY.—We offer the letter in evidence.

“Eau Claire, August 26, 03.

Mr. Gust D. Hosely,
Neillsville, Wis.

Dear Sir: I would like to have a general talk with you with reference to logging operations on the Boise river at your earliest convenience. Can you not make a trip over here some time during the next week or so.

Very truly yours,

JAMES T. BARBER.”

Q. I now show you telegram taken from the files of the company and ask you if you received that telegram from Mr. Hosely on August 31, 1903?

A. Yes, sir.

By Mr. BUNDY.—We offer that telegram in evidence.

Neillsville, Wis., Aug. 29, 03.

James T. Barber,
Eau Claire, Wis.

I will be there in the morning.

GUST HOSELY.”

Q. Mr. Hosely came to see you at that time pur-

(Deposition of James T. Barber.)

suant to that telegram? A. Yes, sir.

Q. And what was the result of the negotiation had at that time which would be on August 31?

A. Why, I talked with him about taking charge of logging operations of the Barber Lumber Company on the Boise River and he seemed to be favorably impressed, but before deciding the question he wanted to go back and consult his wife and consider it.

Q. And he did go back to Neillsville, did he?

A. Yes, sir.

Q. I now show you a telegram taken from the files of the company and ask you if that is a telegram you received from Mr. Hosely on September 12, 1903, or about that time?

A. It was phoned to my house on the 11th and received at the office on the 12th.

Q. The receiving mark on there is made at the office? A. Yes, sir.

Q. And the notation on that is the handwriting of whom? A. Mr. Cotten.

By Mr. BUNDY.—I offer that telegram in evidence which reads:

“Neillsville, Wis., Sept. 11, 03.

J. T. Barber,

Eau Claire, Wis.

Will see you at Eau Claire House at 7:30.

G. D. HOSELY.”

Notation received by witness is as follows:

“Phoned to Mrs. Barber 9:11, 03. 4:55 P. M.

COTTEN.”

(Deposition of James T. Barber.)

Q. Mr. Hosely came to Eau Claire pursuant to that telegram at that time on the 11th?

A. Yes, sir.

Q. Was he here with you more than one day Mr. Barber, more than the following day?

A. I don't think so.

Q. Did you make final arrangements with Mr. Hosely at that meeting? A. Yes, sir.

Q. Mr. Hosely, Mr. Barber has conceived the idea some way and has testified in this case that at this meeting he had with you at Eau Claire in which he agreed to go to Boise, you delivered him this plat book. Plaintiff's Exhibit 141A; what is your recollection on that?

A. Mr. Hosely is mistaken; I didn't give him the plat book; I don't think I ever had the plat book.

Q. And he also testified that at the time you gave it to him, you said to him in substance that the plat book was a plat of the lands of the company and that at that time as he first remembered it, the red markings or dots indicated lands in 6-4 were in the book on September 12, on the day he was here at Eau Claire, two days before that land was ever filed upon. I ask as to whether or not at that time you had any knowledge in any way—I will ask you first whether the Barber Lumber Company had any lands or interested in lands at 6-4 at that time?

A. No, sir.

Q. Did you at that time have information as to what lands were going to be or were open in that town under the Timber and Stone Act?

(Deposition of James T. Barber.)

A. No, sir.

Q. Did you have any knowledge at that time of the land which the State of Idaho was selecting under its preference right in that town?

A. No, sir.

Q. Do you know in whose handwriting the town and range is at the head?

A. Mr. Moon's, I think.

Q. Mr. Barber, will you state on the record with reference to this town of 6-4 how early in your proceedings there, you began watching it with a view of acquiring it and why?

A. I don't know of my own knowledge but very little about 6-4 lands. The first trip that was made by any of us up into the Boise Basin, we had to go through or did go through or sufficiently near to see a large body of timber which was situated there in town 6-4 which had not been surveyed, and consequently was not obtainable under any of the ordinary ways of using our land scrip. From that time on from time to time the discussion came up of doing something or seeing if something could not be done to induce the Governor to make survey and throw that town open. Whether he took any active part in securing the survey or not, I don't know; I didn't take any individually. The survey was finally made by the Government, and in the summer 1903, it was finished and opened up.

Q. With reference to the location of that town in your plan, was it tributary to it?

A. The timber on 6-4 was the most valuable tim-

(Deposition of James T. Barber.)

ber in the Boise Basin proper. It was the last town of any available timber of Grimes Creek, and was very desirable timber and the most accessible. We were satisfied that the logs could be driven from where this timber was growing to the mill.

Q. And there had been negotiations from the time the State made its selection down to almost to-day between your company and the State with a view to acquiring the holding in that town?

A. To within a week or two.

Q. And I think Mr. Borah or Mr. Steunenberg or some of your representatives tried to induce the State to make its selection elsewhere and not in that town?

A. Yes, sir.

Q. I said positively down to within two weeks; I don't know positively about that; that is information that comes from the Boise office.

Q. The State lands in 6-4 are so located as to make it necessary for you to go through other lands in getting to the lands you subsequently acquired in that town?

A. Yes, the river runs right along close to them and we would have to log over that to get to the other.

Q. I notice in the early estimates made in 1902, partly by Mr. Conner, all this entire town of 6-4 was cruised and estimated. Why was that done?

A. It was so because we saw the almost absolute necessity of handling that timber in connection with the Boise Basin proper the great desirability of it and we wanted to be prepared when it did come into

(Deposition of James T. Barber.)

the market to act promptly.

Q. And to obtain an estimate of the timber tributary to Boise? A. Yes, sir.

Q. This town 6-4 was finally surveyed and thrown open to entry making it available either by timber and stone entries or use of lieu land scrip some time in the summer or fall of 1903; I ask you Mr. Barber, what if any preparations you folks made for acquiring lands in that town when it was available?

A. Of course we directed Governor Steunenberg to make preparations to use lieu land scrip in the town, and proceed to get a knowledge of where we could get prices on lieu land scrip for prompt action. I think we bought scrip and had it on hand for that purpose.

Q. Now, Mr. Barber, do you know prior to the time that that land was actually located or subsequent, that timber and stone men were going to locate upon it, prior to their filing I mean? A. No.

Q. Did you authorize any person, Governor Steunenberg or any other person, to solicit or induce people to enter or file upon timber and stone claims in that town? A. No, sir.

Q. Or elsewhere? A. No, sir.

Q. Were any timber and stone filings made in that town with your knowledge? A. No, sir.

Q. Was Patrick Downs, Wells, Kinkaid, Pritchard or Steunenberg or any other person employed by you or your company, or authorized by you or your company to solicit or induce individuals to enter timber and stone claims in that town or else-

(Deposition of James T. Barber.)

where? A. No, sir.

Q. Now Mr. Barber, if you will step aside I will show some letters to Mr. Moon.

[Deposition of S. G. Moon, on Behalf of the Defendants (Recalled).]

S. G. MOON, recalled for examination, testified as follows:

By Mr. BUNDY.—Mr. Moon, I show you this plat book referred to in Mr. Barber's examination as plaintiff's exhibit and marked 141A and ask you if you ever saw that book before?

A. I think so, because some of the numbers indicating the towns and ranges seem to be in my handwriting.

Q. And is the index to it found on the first fly leaf in your handwriting?

A. I think it is; yes, sir.

Q. Now, Mr. Moon, calling your attention to page 7 of the book containing a plat of town 6 range 4, did you make the red marks or dots found on that page? A. No, sir.

Q. Do you know who did make them?

A. I do not.

Q. Did you make the blue lines by which certain portions are platted out in the town?

A. No, sir.

Q. I show you copy of letter found on page 223 of the copy-book of the company and ask you if that is a copy of letter you wrote and mailed to Governor Steunenberg at that date? A. Yes, sir.

(Deposition of S. G. Moon.)

By Mr. BUNDY.—We offer that letter in evidence.

“Eau Claire, Sept. 3, 03.

Honorable Frank Steunenberg,
Caldwell, Idaho.

Dear Sir: I have your letter of August 30. We are rather disappointed to learn of the sale of the Goodwin property but do not believe we would care for it as such price as \$36,000.00.

We have a letter from Mr. Souther with reference to furnishing his company power at Idaho City, and Mr. Barber will probably make him a proposition in a day or two. I enclose herewith a plat book in which I marked the lands covered by the deeds which we have. Will you please go over these and add such lands as we have acquired since I forwarded the deeds to you, bringing it up to date? Shall probably send Mr. Hosely out there in a short time to look over land in the Crooked River country with the idea of putting in some logs this winter. We wish that you would let him have this book so that he can tell on what lands to log. We are figuring on buying some unlimited forest reserve scrip which as we understand it, is applicable to unsurveyed lands. Will you please advice us as soon as possible how much of this we could use to advantage in the town on the north fork or any other towns which are liable to be included in the timber reserve.

Please advice me as soon as convenient how you are getting along with recording the deeds and how soon we may expect the deeds to be returned to this

(Deposition of S. G. Moon.)

office. Also please advise me at once of any of the Basin deeds which had to be changed in any way, so that we may get a new deed from Mr. Palmer without delay.

Yours very truly,

S. G. MOON,

Secretary."

Q. Mr. Moon, is that plat book shown you, marked 141A the plat book referred to in that letter?

A. Yes, sir.

Q. And was that plat book sent by you to Mr. Steunenberg for delivery to Hosely in your letter of September 3-03?

A. Yes, sir.

Q. Was the red markings shown on page 7 of that book in that book at the time you sent it?

A. No, sir.

Q. Are they your markings?

A. No, sir.

Q. Do you know whose they are?

A. No, sir.

Q. Mr. Moon, you are familiar with the lands known as 6-4 lands, are you not?

A. Yes, sir, to a certain extent.

Q. When you were out on your first visit to Idaho, June, 1902, did you have your attention attracted to these lands?

A. Yes, sir.

Q. At that time state as to whether or not the town was open to entry by any means?

A. No sir, it was not.

Q. Did you cause that town to be estimated or cruised during the summer of 1902?

A. Yes, sir.

(Deposition of S. G. Moon.)

Q. And from that time until now, state as to whether or not you have been desirous of acquiring lands in that town? A. We have; yes, sir.

Q. Is there anything peculiar about the locality of that town that makes it desirable to your plan?

A. Yes, sir, on my first trip to Idaho in June, 1902, at which time I took Mr. Connors there with me to estimate lands we took a trip into the Basin which was a general exploration trip. We drove from Idaho City across through the State lands to Centerville and from Centerville north through town 7-5, I think it was to Pioneerville, north from there into town 8-5 to a point very near the summit between the Basin and the valley of the east fork of the Payette River, possibly the south fork they call it, and from there went back to Centerville and down across Granite Creek near the mouth. That is a branch of Grimes Creek which comes into Grimes near the corner of 6-4. From there we went up into 6-4 where we saw the best timber. It seemed to be the best timber we had seen and we were particularly attracted by several very large trees, and before I left I told Mr. Connors and also when I got back to Boise I told Governor Steunenberg, in telling Mr. Palmer that we wanted the estimators to make a general examination of all the timber in the Basin where the quantity per acre would warrant development, and I particularly requested that they have Mr. Connors prove 6-4 thoroughly. It seemed to be very desirable timber. It was the lowest down on the river, or Grimes Creek of any timber in quan-

(Deposition of S. G. Moon.)

tity in the Basin. I think at that time that the Governor told me that the Government had planned to survey it and throw it open, but possibly not then, but it seems to me he told me that the plan was to have it surveyed then or soon.

Q. So that your general trip of exploration in general was not confined to lands which you owned or in which you had any outstanding obligation to buy? A. No, sir.

Q. And included lands owned by the Government which were not as yet on the market?

A. Yes, sir, it was more particular to see the lands which might be bought.

Q. I will ask you the general question Mr. Moon, if all of this cruising and exploring on your part and your cruisers was for the general purpose of determining as to whether or not there was sufficient timber tributary to Boise to warrant the development of a large plant at Boise? A. Yes, sir.

Q. If such cruising and estimating had resulted in finding a comparatively small amount of timber in the Basin, would it have been practicable or advisable to construct a plant at Boise?

A. No, sir.

Q. So your investigations were to include all lands that might be bought in the future?

A. Yes, sir.

Q. I neglected to ask you Mr. Moon, if this plat book you have mentioned 141A, if you have ever seen it since the time you sent it out to Mr. Steunenberg in the letter I show you?

(Deposition of S. G. Moon.)

A. Not to my knowledge, no, sir.

Q. You learned some time in the summer of 1903 of the fact that town 6-4 was thrown open to entry, did you not Mr. Moon, some time before it was entered?

A. I think I did; yes, sir.

Q. Do you recall what steps were taken by your company for acquiring lands in that town?

A. Not definitely, I remember it was our intention at all times to lay scrip on 6-4 lands at the earliest opportunity.

Q. Do you recall the fact that a large amount of scrip had been purchased and was in your hands or was held by Governor Steunenberg for that purpose?

A. Yes, I remember that.

Q. I will ask you generally as to whether or not your company authorized Governor Steunenberg, Downs, Kinkaid, Wells, Pritchard or any other person to solicit or request or induce individuals to make filings under the Stone and Timber Act in that town or elsewhere?

A. No, sir.

Q. Were any filings made in that town under the Timber and Stone Act with your knowledge or by your request?

A. No, sir.

Q. Were any of the filings which you made in that town made under the Timber and Stone Act at your request Mr. Moon, yourself or your company?

A. No, sir.

Q. Made with knowledge or request of your company?

A. No, sir.

Q. Do you recall whether any scrip was laid in

(Deposition of S. G. Moon.)

that town? A. I do not know of any that was.

Q. Do you know of any explanation that was given you because it was not laid?

A. Yes, sir.

Q. State that.

A. I was informed by Governor Steunenberg that when he got around to laying his scrip that the entrymen, timber and stone entrymen had gotten ahead of him, so that there was no land available for scrip. I think he made—I think it may possibly have been the fact that he was not prepared by reason of some power of attorney that he endeavored to get from me on the first day that the land was open. In any event the timber and stone entrymen he reported, were waiting in line at the land office so that he was unable to lay any scrip.

Q. As bearing upon the intentions to scrip 6-4 land, I wish to offer in evidence some letters now.

Mr. Moon, I show you copy of letter page 1300 of copy-book of D. R. Moon, is that a copy of a letter you wrote and mailed to A. E. Palmer on or about the date shown? A. Yes, sir.

By Mr. BUNDY.—We offer that letter in evidence.

“Eau Claire, July 14, '02.

Mr. A. E. Palmer, Spokane, Washington.

Dear Al: I have just wired you as follows: ‘Our efforts to get scrip have failed. Get us 10 thousand at best price possible.’ We will probably, eventually want more than ten thousand acres, so if you can get a good price you had better take an op-

(Deposition of S. G. Moon.)

tion on five thousand or ten thousand more and give us a chance to consider it. If the seventy-five thousand acres of \$4.50 scrip was sold, there, you ought to be able to get fifteen or twenty thousand at a good price. I have a wire from Steunenberg as follows: 'Situation here most satisfactory, party is recalled, what is the news.' so I suppose everything is clear now to the issuing of patents. I have your of the 10th enclosing Conner's report in 6-4. I should say that Conners and also any one else cruising land to be located by scrip should not spend time on lands that will not run eight thousand feet yellow pine per acre on the average.

Yours truly,

S. G. MOON."

Q. Mr. Moon, that reference in here to Conners report in 6-4, in this letter that is dated July 14, '02, referred to his first estimate or cruise when he was first out there?

A. Yes, sir.

Q. I don't know that he was ever there again?

A. Not that I remember of.

Q. But that was the result of the instructions you gave when you were there in June?

A. Yes.

Q. And before this town was on the market at all?

A. Yes; was that as early as July 14, '02?

By Mr. BUNDY.—I infer from this letter that Mr. Connor was cruising it with a view of scriping it?

A. Yes, sir.

Q. Perhaps you will remember about that telegram, do you not Mr. Moon, referred to in that let-

(Deposition of S. G. Moon.)

ter to the party being recalled?

A. Yes, sir.

Q. Have I asked you about that?

A. Yes, sir.

Q. I show you copy of letter found on page 227 of the copy-book of the company, is that a copy of a letter written by Mr. Barber, as President, and sent by him to Mr. Steunenberg? A. Yes, sir.

By Mr. BUNDY.—I offer that letter in evidence.

“Eau Claire, Sept. 4, 03.

Hon. Frank Steunenberg,

Boise, Idaho.

We have arranged with the Northern Pacific Company for securing a certain amount of scrip, available on unsurveyed Government land, and think it advisable to, locate a bunch of this on the north fork of the Boise River in 9 east. You may also think it advisable to include a little of the land in town 8 range 8 east, on Crooked River above the land already secured by us. Will you please have Mr. Downs and a competent surveyor ready to take the representative of the Northern Pacific Road on this land at once upon his arrival in Boise. He will have a letter of introduction to you. It is necessary for the Northern Pacific to enter these lands in their own name and they in turn will deed it to us. I don't think it would be well to pay the price we have to pay in order to secure this land, unless you can locate at least 12,500 to the acre, and in a reasonable accessible location. Please be prepared to take prompt action on the arrival of the

(Deposition of S. G. Moon.)

Northern Pacific Railway Company's representative in accordance with a telegram I will send you as soon as I am informed of the date of his departure.

Yours very truly,

JAMES T. BARBER,
President."

Q. I show you copy of a letter found on page 345 of the copy-book of the company; is that a copy of a letter written and mailed to Governor Steunenberg at or about this date? A. Yes, sir.

By Mr. BUNDY.—We offer that in evidence.

"Eau Claire, Dec. 10, 02.

Hon. Frank Steunenberg,
Caldwell, Idaho.

Dear Sir: In view of the advertised activity which Governor Scofield is taking in timber along the Boise River, it seems to us that we can ill afford to delay any longer taking such action as is necessary to get what we want in the way of timber and protect our position. Have you done anything as yet towards laying scrip on the land which we decided while in Boise last Sept.? It seems to us that we should lay that scrip on the rest of the block as soon as possible. We should also take steps at once to secure the state land in 6-5 and 7-4, and do what is possible toward having the survey of 6-4 approved so we can scrip what we want in that town.

Yours very truly,

S. G. MOON."

A. It seems to me from reading that letter that

(Deposition of S. G. Moon.)

that town had been surveyed before that and the survey had never been approved.

By Mr. BUNDY.—I think that is so.

Q. I show you a copy of a letter on page 135 of the company's letter-book; is that a copy of a letter you wrote and mailed Governor Steunenberg at or about the date? A. Yes, sir.

By Mr. BUNDY.—We offer that in evidence.

“Eau Claire, May 11, 1903.

Hon. Frank Steunenberg,
Caldwell, Idaho.”

First paragraph omitted.

“I also think we should lay the scrip on land in 7-5 and 8-5 which we selected, as soon as possible. Have you done anything yet toward having the state lands in 6-5 and 7-4 offered for sale? What do you think will be our chances for laying scrip in 6-4”?

Q. I show you copy of a letter, page 181 of the copy-book of the Barber Lumber Company copy-book; is that a copy of a letter you wrote and mailed Steunenberg on that date? A. Yes, sir.

By Mr. BUNDY.—We offer that in evidence.

“Eau Claire, July 3, 03.

Hon. Frank Steunenberg,
Caldwell, Idaho.

Dear Sir: As Mr. Barber wired you yesterday, he will be unable to leave here for a couple of weeks. We trust you will do everything possible to obtain for us as much desirable land in 6-4 as possible.

Yours very truly,

S. G. MOON.”

(Deposition of S. G. Moon.)

Q. I show you telegram taken from the files of the company and ask you if that is a telegram you received from Governor Steunenberg, number 264, on or about its date? A. Yes, sir.

By Mr. BUNDY.—We offer that in evidence.

“Boise, Idaho, Sept. 7, 03.

S. G. Moon,

Eau Claire, Wis.

Send me at once your general power of attorney. May want to lay some scrip soon. You can revoke later.

FRANK STEUNENBERG.”

Q. I show you copy of telegram, page 233, in letter-book; is that a copy of a telegram you sent Steunenberg on or about that date?

A. Yes, sir.

By Mr. BUNDY.—I offer that in evidence.

“Eau Claire, Sept. 8, 03.

Hon. Frank Steunenberg,

Care of Idah-ha Hotel,

Boise, Idaho.

Am sending power of attorney today,

S. G. MOON.”

Q. Was that telegram in response to the telegram just preceding and offered in evidence?

A. Yes, sir, it was.

Q. And the power of attorney therein referred to, related to what Mr. Moon?

A. It was the power of attorney; well I know what he wanted now, he wanted my power of attorney because the scrip, that body of scrip hap-

(Deposition of S. G. Moon.)

pened to be in the name, but I think I misunderstood.

By Mr. BUNDY.—Yes, you did. He wanted power of attorney so he could lay scrip which he had in his possession and which stood in your name.

A. Yes, sir.

Q. I show you letter written on same date, September 8, and found at page 233 of the company's copy-book; did you write and mail that letter on that date? A. Yes, sir.

By Mr. BUNDY.—We offer that in evidence.

“Sept. 8, 03.

Hon. Frank Steunenberg,

Care Hotel Idan-ha,

Boise, Idaho.

Dear Sir: I received your wire last night asking for power of attorney. I didn't remember at first that the scrip was all in my name and that you wanted some sort of a power from the Barber Lumber Company, and so I wired you that we would attend to it when Mr. Barber returned on Thursday. It afterwards occurred to me that the corporation could not give a power of attorney for the transfer of real estate which led me to remember that the scrip was in my name. I wired you this morning that I was sending power of attorney to-day. I enclose same herewith so there has been no time lost. Hoping you will receive the same by the time you need it, I am,

Yours very truly,

S. G. MOON,

Secretary.”

(Deposition of S. G. Moon.)

Q. I show you telegram taken from the files of the company, marked number 270; did you receive that telegram from Gov. Steunenberg?

A. Yes, sir.

Q. On or about its date? A. Yes, sir.

By Mr. BUNDY.—We offer that in evidence.

“Caldwell, Idaho, Sept. 8, 03.

S. G. Moon, Eau Claire, Wis.

Scrip I have here is in your own name. I cannot use it without your general power of attorney. Mail it at once.

FRANK STEUNENBERG.”

Q. I show you telegram taken from the files of the company, marked 269; is that a telegram you received from Gov. Steunenberg on its date?

A. Yes, sir.

By Mr. BUNDY.—We offer it in evidence.

“Boise, Idaho, Sept. 9, 03.

S. G. Moon,

Eau Claire, Wis.

Send power of attorney to Boise. Must have it Sunday to do any good. Answer.

FRANK STEUNENBERG.”

Q. I show you another telegram taken from the files of the company 267; did you receive that from Gov. Steunenberg on that date?

A. Yes, sir.

By Mr. BUNDY.—We offer that in evidence.

(Deposition of S. G. Moon.)

“Boise, Idaho, Sept. 10, 03.

S. G. Moon,

Eau Claire, Wis.

Send duplicate power of attorney here quick.
Need it for recorder.

FRANK STEUNENBERG.”

Q. I show you copy of a letter or telegram found on page 236 in letter-book; is that a letter or telegram you mailed to Gov. Steunenberg?

A. Yes, sir.

By Mr. BUNDY.—We offer that in evidence.

“Eau Claire, Sept. 10, 03.

Hon. Frank Steunenberg,

Care Idan-ha Hotel,

Boise, Idaho.

Mr. Chapman arrives at Boise Sunday night with additional power of attorney.

S. G. MOON.”

By Mr. GORDON.—Is that a letter or telegram?

By Mr. BUNDY.—That is a telegram?

Q. Mr. Moon, do you recollect that it was the general expectation that 6-4 would be open on July 15, instead of September 15? Yes, sir.

Q. And that the delay of sixty days was caused as you understood it by an order giving to the State sixty days preference rights? A. Yes, sir.

Q. I show you telegram on page 180 of the copy-book signed, “James T. Barber, President.”

Q. Is that a copy of a letter and telegram appearing in the records of the company as sent by its president? A. Yes, sir.

(Deposition of S. G. Moon.)

By Mr. BUNDY.—We offer that in evidence.

“Eau Claire, Wis., July 2, 1903.

Hon. Frank Steunenberg,

Boise, Idaho.

Cannot leave here for two weeks. Do not neglect town 6 range 4 the 15th.

JAMES T. BARBER,
President.”

Q. What did that telegram refer to Mr. Moon?

A. That telegram referred to locating lands in 6-4 with scrip and Mr. Barber understanding that the town would be open for entry on July 15th.

Q. No scrip was placed at that time in 6-4?

A. No, sir.

Q. And the Barber Lumber Company as I understood it afterwards purchased a good many claims in that town which were entered by timber and stone entrymen?

A. Yes, sir.

Q. Did you buy any claims from entrymen or authorize any person to buy for you any claims from any entrymen prior to the time that the final receipts and certificates at the land office was issued?

A. No, sir.

Q. Do you know of any having been bought prior to that time?

A. No, sir.

Q. Was you ever informed by anyone in any manner of the purchase of any timber and stone entry by or in behalf of your company, of yourself or Mr. Barber prior to the issuance of final receipt and certificate?

A. No, sir.

[Deposition of James T. Barber, on Behalf of the
Defendants (Recalled).]

JAMES T. BARBER, recalled, testified as follows:

By Mr. BUNDY.—Mr. Barber, after you had learned of the failure to procure land in town 6-4 by the use of scrip was anything further done by you or your company until at or about the time these claims came on to the market?

A. No, sir.

Q. And at or about the time that final receipts were made, did you authorize Governor Steunenberg to go on and buy these at a stipulated price?

A. I think so. That is my recollection of the transaction.

Q. They were not part of the Basin land and included in his contract? A. Yes, sir.

Q. And you authorized him to buy them at the same rate he had paid for the other Basin lands, \$800.00 a claim? A. Yes, sir.

Q. I show you copy of a letter, page 285 of the copy-book of the company; is that a letter you wrote Governor Steunenberg on or about that date?

A. Yes, sir.

By Mr. BUNDY.—We offer that letter in evidence.

“Eau Claire, Nov. 13, 03.

Hon. Frank Steunenberg,

Boise, Idaho.

Dear Sir: Lands which you may buy in town 6 range 4 can be deeded to George S. Long, Tacoma,

(Deposition of James T. Barber.)

Washington, and I am satisfied that he will take care of the matter to the satisfaction of all parties.

Yours very truly,

JAMES T. BARBER."

Q. Mr. Barber, will you explain in your own way what if any arrangements you had made with Mr. Long and for what purpose these deeds were taken in his name?

A. Mr. Long, as the evidence has shown was formerly connected with the Northwestern Lumber Company. I was very well acquainted with him. At some time previous to our Idaho adventures, I think I met Mr. Long or had some correspondence with him and he made the statement—it may have been by correspondence—and he made the statement he was purchasing some timber and stone claims in a certain locality and he was afraid that if the owners of the claims he wanted to purchase knew that the Warehouser Timber Company was buying in that locality, the price would be very materially enhanced, and he wanted to know if there was any objection to his taking titles, placing titles of such claims in my name, and I told him it was alright. When the purchase of the claims in 6-4 came up, it seemed to me whoever was actively engaged in buying these claims would be able to get them at a less price if it were not known that the Barber Lumber Company was buying them and for that reason, and that reason given, I gave Mr. Steunenberg George Long's name, as I had pre-

(Deposition of James T. Barber.)

viously written Mr. Long; I know I had written him. We were situated much as he had been and we were going to put some titles in his name or ask the privilege. The exact arrangement we made with him is not clear in my mind, but I wrote him we were going to do that.

Q. I show you memorandum copy of what purports to be a letter from you to Mr. Long dated Dec. 10, '00. Is that a copy of a letter you kept?

A. That is copy of a letter I wrote to Mr. Long with reference to taking up titles in my name. Now the circumstances of why the copy was preserved in that way I cannot remember; it may have been written in Minneapolis and the copy brought down here.

Q. Does that refresh your recollection as to why you wanted Mr. Long to take titles in your name?

A. Oh, yes; this matter came through Mr. McKnight who was at that time President of the Northwestern Lumber Company and lived in Minneapolis. He was a stockholder in Mr. Long's Company, and Mr. Long, it seems, had a talk with Mr. Knight with reference to putting these titles in my name, and Mr. McKnight submitted the question to me, and I wrote to Mr. Long this letter.

By Mr. BUNDY.—We offer that in evidence. Number 342, dated at Eau Claire, Dec. 10, '00.

“Mr. George S. Long,

Tacoma, Wash.

My dear Sir:

Mr. McKnight says today you had some talk with him about using my name in the purchase of some

(Deposition of James T. Barber.)

timber lands when it was thought best not to use a company's. He is uncertain whether he or I were to write you on this subject so I do it, and will say that you may do anything short of pledging me in marriage, and I will not kick.

Yours truly,

J. T. BARBER."

Q. I show you letter marked 343 and ask you if that is a letter you received from Mr. Long, May 7, '01? A. Yes, sir.

Q. And was that the next information you had on the subject after the letter you had written which has been put in evidence? A. Yes, sir.

By Mr. BUNDY.—We offer that in evidence.

Tacoma, Washington, May 3, '01.

Mr. J. T. Barber,

Eau Claire, Wis.

Dear Mr. Barber: As I told you when you were out here we are picking up a few tracts of land occasionally and pass title to you. We will probably continue to do this for some time to come down in one section of the country where we are operating. In as much as the revenue laws compelling us to pay taxes on deeds will be repealed in July next, we will refrain from asking you for the quit claim deed for this property until after July 1st, when we will save the revenue. The following is a list of the lands which now stand in your name.

(Description omitted.)

When we are ready to have you execute the quit claim deed, we will send you the original deeds so

(Deposition of James T. Barber.)

you can verify the document which we will send you to execute to us. In the interval thought it well to give you a list of the lands which stand in your name at present time; all of which were purchased for the Warehouser timber company.

Nothing especially new in the situation out here. Trust that your drives come in all right, and that you will not be afflicted by spring affairs as you were last year.

Yours truly,

WAREHOUSER TIMBER COMPANY,

By GEORGE S. LONG,

Agent."

On the back of this letter 343, is an endorsement which is in your handwriting?

A. Yes, sir.

By Mr. BUNDY.—Endorsement reads: "To whom it may concern. The taking of title land bought by W. T. Co. in my name is a matter solely for the accommodation of the W. T. Co., and I have no personal interest whatever in the lands mentioned in this letter. Should anything happen to me the title to these lands should be transferred as directed by the W. T. Co. without consideration.

J. T. BARBER.

Dated May 7-01."

Q. I show you copy of letter on page 285; of company's copy-book, and ask you if that is a copy of the letter you wrote and mailed Mr. Long?

A. Yes, sir.

By Mr. BUNDY.—It is a letter dated, I can't tell when.

(Deposition of James T. Barber.)

A. November 13; it is either the 10th or the 13th.
(By Mr. BUNDY.)

“Mr. George S. Long,

Care of Warehouser Timber Company,
Tacoma, Wash.

Exegencies has arisen which make it desirable to pass the title to certain lands in Idaho through some party entirely removed from association with Barber Lumber Company. These circumstances being similar to those which made it desirable to use my name in connection with some of the W. T. property, I therefor take the responsibility of directing the placing of the title to certain lands in you. As soon as the matter reaches a final adjustment, we will forward a quit claim deed to the property. Trusting that you have no serious objection to this, and thanking you in advance, I remain with kindest regards,

Yours very truly,

JAMES T. BARBER.”

Q. What were the exigencies referred to in that letter, Mr. Barber?

A. The belief that the knowledge of the operation of the Barber Lumber Company in the purchase of these titles would unreasonably enhance the value, the same as explained to Mr. Long.

Q. In dealing with entrymen? A. Yes.

Q. Now, prior to that time, the correspondence shown Mr. Barber, that you had been solicitous and desirous to having deeds from the entrymen to Palmer and Rand placed on record, but no deeds

(Deposition of James T. Barber.)

from them to the Barber Lumber Company have been placed on record; now, what was the difference and distinction as to it affecting the timber business by having one set of deeds on record and not the other?

A. I did so to get the title to the property in the hands of these people we suggested, making the title absolutely secure and keeping from the public the knowledge that these large pieces of property were being secured for the benefit of the company.

Q. The company at that time had not filed its articles to authorize it to do business in the State of Idaho?

A. I am not clear on that; the records will show.

Q. I show you letter taken from the files of the company, 345; is that a letter you received from Mr. Long on November 21-03?

A. Yes, sir.

By Mr. BUNDY.—We offer that in evidence.

“James T. Barber,

Eau Claire, Wis.

Dear Sir: Yours of the 13th inst. at hand, and it will be entirely agreeable to the writer to comply with your wishes in the matter of temporarily being custodian of some of your real estate in Idaho. We recently had a visit from Messrs. Carson and McCarty of your company who were out with Mr. Warehouser. We had a whole lot of wet weather to show them, and other things but the wet weather predominated. With kind regards, I am,

Yours truly,

GEORGE S. LONG.”

(Deposition of James T. Barber.)

Q. I show you telegram taken from the files of the company, marked 346; I ask you if that telegram was received by you March 21-07?

A. Received at our office that date; I think I saw it.

By Mr. BUNDY.—I offer that in evidence.

“Tacoma, Wash., March 20-21-07.

F. H. L. Cotten,

Eau Claire, Wis.

Say to president your company I am subpoenaed to appear before grand jury Boise Saturday next, regard matter mentioned his letter to me November 13, 03. Wire suggestions.

GEO. S. LONG.”

Q. What did you understand by that telegram, Mr. Barber, that I just showed you?

A. What do you mean?

Q. What did you understand Mr. Long meant by “Wire suggestions”?

A. I don’t know what he meant. I could not suggest to him what he had to testify to.

Q. You wired relative to statement in letter?

A. Yes, sir.

Q. I show you telegram copied page 979, Barber Lumber Company book, and ask you if you sent that? A. I did.

By Mr. BUNDY.—We offer that.

“Eau Claire, March 21-07.

George S. Long,

Tacoma, Wash.

Reason of request 3 years was to direct attention

(Deposition of James T. Barber.)

of other timber buyers from our attempt to assemble enough timber in that section for a plant."

Q. Should that telegram have read timber sellers?

A. Yes, sir.

Q. The purpose was to direct the attention of those selling timber rather than those buying?

A. Yes.

Q. And the placing on record of deeds from the entrymen to those third parties would tend to prevent other investors going in there? A. Yes.

Q. And the placing of these deeds from those people a large lumber corporation would enhance the value of lands in hands of entrymen? A. Yes.

Q. Was any of these proceedings or any of these deeds taken in the name of Mr. Rand, Mr. Long, or Mr. Palmer for any other reason or motive than that you have testified to, Mr. Barber? A. No, sir.

Q. I will ask you whether or not Governor Steunenberg by virtue of his contract, who was buying land for you, with you this opinion to the effect of not letting it be known that your folks were interested?

A. I think he did; that is my recollection.

Q. Now, preceding the purchase of 6-4 lands; we diverted a little there because I thought that was the place to do it. I show you copy of a letter, page 297 of Company's book; is that a letter written and mailed by your cashier to Mr. Steunenberg?

A. Yes, sir.

Q. That is his signature?

A. Yes, that is his signature.

(Deposition of James T. Barber.)

By Mr. BUNDY.—We offer that in evidence.

“December 10, 03.

We have today mailed our Chicago check number 39629 for \$10,000.00 to the First National Bank of your city for your credit. We enclose carbon copy of our letter to the Bank which will explain itself. Both Mr. Barber and Mr. Moon are in Chicago and will not return until the last of the week. Mr. L. G. Chapman will write you from Stanley regarding this matter today.

Yours truly,

BARBER LUMBER COMPANY,

Per COTTEN.”

Q. That check was sent from here on December 10-03. Can you state for what purpose that money was sent out, Mr. Barber?

A. To purchase 6-4 claims, I think.

Q. I show you letter marked 371, found in the files of the company, and ask you if that is a letter you received from Mr. Chapman?

A. Yes, sir.

Q. Is that notation at the bottom in your handwriting? A. Yes, sir.

By Mr. BUNDY.—I offer this in evidence.

“Jan. 29, '04.

J. T. Barber, Pres.”

This letter is written from Stanley, Wisconsin, Jan. 29, '04.

“J. T. Barber, Pres.

Eau Claire, Wis.

Dear Sir: I enclose herewith a letter received this

(Deposition of James T. Barber.)

morning from Governor Steunenberg, asking that sixty six hundred dollars be sent Mr. Borah for the purpose of locating claims in 6-4 now offered. I wrote the Governor on the 22nd asking him to send Hosely sixteen hundred dollars for the purpose of taking two claims on Crooked river that had been entered by the two boys who went out with Hosely, supposed that the Governor had funds for this purpose. Of course, in the absence of his statement showing what claims have been taken, it is impossible to know just what funds the Governor has available for the two claims that the Hosely boys have taken. We want, and no doubt we want these now being offered in 6-4 so I think the money had better be sent to Borah for this purpose. If this remittance is made to Mr. Borah, Hosely should be advised from there or here of the fact that he will take care of the claims offered.

Yours truly,

L. G. CHAPMAN."

Notation at bottom: "Send \$6600.00 to W. E. Borah for account and debit Steunenberg.

J. T. BARBER.

Paid Eau Claire, Wis. Jan. 30-04.

By C., Cashier."

Q. Do you recall why the money was sent to Mr. Borah at that time instead of to Governor Steunenberg direct?

A. My recollection is that Governor Steunenberg was away, out of the city, and it was left in Mr. Borah's hands to tend to.

(Deposition of James T. Barber.)

By Mr. BUNDY.—I offer the entry in ledger account of Frank Steunenberg of date Jan. 30-04. Sixty-six hundred dollars, with reference to cash-book on page 11, and I offer entry found at that place. “Frank Steunenberg debit send W. E. Borah, Boise Chicago draft for deposit. Credit your account sixty-six hundred dollars.”

I offer in evidence ledger account of Frank Steunenberg, page 3, of the Barber Lumber Company and particularly item dated March 15-04. Debtor to cash \$10,000.00, and the reference to the cash-book at page 11 and then offer the entry on page 11 which reads: “Frank Steunenberg debtor Feb. 22-04 Chicago check W. E. Borah, Boise, for deposit, your account \$10,000.00.”

Q. I now show you a copy of letter found at page 332 of copy-book of the company and ask you if that is a letter or telegram you sent Mr. Borah on that date? A. Yes, sir; telegram.

By Mr. BUNDY.—We offer that in evidence.

“Feb. 22-04.

W. E. Borah,
Boise, Idaho.

We want all accessible claims on Grimes Creek at twelve hundred or less. Are sending you ten thousand.

JAMES T. BARBER.”

Q. Grimes Creek land refers to 6-4 land, does it not? A. Yes, sir.

Q. Was that the \$6,600.00 sent to Senator Borah on Jan. 30-04, and the \$10,000.00 sent in Feb. 22-04,

(Deposition of James T. Barber.)

and were sent for the purpose of buying claims in the 6-4 property, were they not? A. Yes, sir.

By Mr. BUNDY.—I offer ledger entry in the Steunenberg account dated December 31-03.

“Debtor to cash \$22,600.00.” Referring to page 9 of the cash-book I now offer entry of the cash-book, page 9, as follows:

“December 31-03 Frank Steunenberg debtor. December 10 deposited to your credit with First National Bank, Boise, \$10,000.00; Dec. 24 deposited to your credit with First National Bank, Boise, \$12,600.00.” That makes \$22,600.00; \$6,600.00 and \$10,000.00 sent or deposited to the credit of Governor Steunenberg between Dec. 10-03 and Feb. 22-04, or a total of \$39,200.00? A. Yes.

Q. The greater portion of that was sent for the purpose of buying the 6-4 claims, was it not, Mr. Barber? A. Yes, sir.

Q. The money deposited to the credit of Governor Steunenberg was not deposited as I understand for use in any particular locality, but to the end that he would have money on hand to purchase lands that were available and offered for sale?

A. And which we authorized him to buy.

Q. Could you tell how much of that \$39,200.00 was used for the purchase of 6-4 claims from any knowledge that you have?

A. I couldn't tell.

Recess taken to 1:30 P. M. this day.

1:30 P. M. this day examination of J. T. Barber resumed.

(Deposition of James T. Barber.)

By Mr. BUNDY.—I want to call your attention to the item, Mr. Barber, charged on the books against Steunenberg, December 10-03, and referred to in Mr. Cotten's letter of that date which has been referred to as number 293, and ask you if you know for what specific purpose that was sent out there?

A. I think I stated in regard to that letter. It was sent out to buy claims in 6-4; I don't know that it was sent for that purpose.

Q. The only thing that would indicate it is the date? A. That is all.

Q. Mr. Barber, I show you copy of letter found at page 227 of the company's letter-book; is that a copy of letter you mailed to Governor Steunenberg?

A. Yes, sir.

By Mr. BUNDY.—We offer that in evidence.

“Sept. 4, 03.

Hon. Frank Steunenberg,
Boise, Idaho.

Dear Sir: We have arranged with the Northern Pacific Railway Company for securing a certain lot of scrip available on unsurveyed government land and think it advisable to locate a bunch of this on north fork of the Boise in range 9 east. You may also think it advisable to include a little of the land in town 8 range 8 east on Crooked river above the lands already secured by us. Will you please have Mr. Downs and a competent surveyor ready to take the representative of the northern Pacific railway upon these lands at once upon his arrival in Boise? He will have a letter of introduction to you. It is

(Deposition of James T. Barber.)

necessary for the Northern Pacific to enter those lands in their own name and they in turn will deed it to us. I don't think it would be well to pay the price we have to in order to secure this land, unless you can locate at least 12,500 feet to the acre and in a reasonably accessible location. Please be prepared to take prompt action on the arrival of the Northern Pacific Railway Company's representative in accordance with a telegram I will send you as soon as I am informed of the day of his departure.

Yours very truly,

JAMES T. BARBER."

Q. That letter refers to certain scrip bought from Mr. Phipps? A. Yes, sir.

Q. And which was ultimately located in some unsurveyed towns in the Crooked river country?

A. Yes, sir, north fork.

Q. And refers to lands which were located by scrip in town 8-7 east, town 8-8 east, and town 6-9 east in town 7-9 east; is it not? A. Yes, sir.

Q. I show you telegram on page 225 of the copy-book of the company; did you send that telegram on that day? A. Yes, sir.

By Mr. BUNDY.—We offer that in evidence.

"Eau Claire, Wis. Sept. 4-03.

Hon. Frank Steunenberg,

Boise, Idaho.

Arrange to have Downs and a competent surveyer where you can get them at a days notice. See letter.

JAMES T. BARBER,"

Q. I show you copy of a letter found at page 226

(Deposition of James T. Barber.)

of the company's book; is that a copy of a letter you wrote to Mr. Steunenberg same day?

A. Yes, sir.

Q. We offer it in evidence?

“Eau Claire, Sept. 4-03.

Hon. Frank Steunenberg,
Boise, Idaho.

Dear Sir: In accordance with letter and telegram of this date the bearer is sent out for the purpose of locating some unsurveyed land and you will arrange to have him taken upon the land along the north fork of the Boise River east of range 8.

Yours very truly,

JAMES T. BARBER, Pres.”

Q. To whom was that letter introducing Governor Steunenberg?

A. He was that Northern Pacific Agent that went out there, Mr. Hughes.

Q. At that time had your company or you or Mr. Moon personally located any unsurveyed land at all on Crooked River country? A. No, sir.

Q. I show you copy of letter found at page 263 of the company's book; did you mail that letter at that date? A. Yes, sir.

By Mr. BUNDY.—That is offered in evidence.

“Eau Claire, Oct. 1-03.

Mr. A. E. McCartany,
St. Paul, Minn.

Dear Sir: Answering your letter of the 28th would say that we were under the impression that all of the negotiations with Mr. Phipps were off, but recent

(Deposition of James T. Barber.)

communications from Boise have convinced us that it might be possibly to use some of the scrip about which we have been negotiating with Mr. Phipps. We now have a corps of engineers making a careful survey of some of the timber land upon which some of this scrip can be used, and expect to offer in a few days.

It would be well therefor to have Mr. Phipps ready to send a man to Boise within the next week or ten days. You haveing done all of the negotiations with Mr. Phipps, we desire to have the matter negotiated through you.

Yours very truly,

J. T. BARBER."

Q. Up to that time, Oct 1st, 03, you had not closed for the purchase of any scrip with Mr. Phipps, had you Mr. Barber?

A. No, sir, not unsurveyed scrip; we bought some other scrip previous to that for other purposes.

Q. You had not bought any scrip which was used for the lands in the Crooked river country which is shown in the book? A. No, sir.

Q. I show you copy of letter found at page 267 of the company's book and ask you if you wrote that letter? A. Yes, sir.

By Mr. BUNDY.—It reads:

"Eau Claire, Oct. 8-03.

Mr. L. G. Chapman,

Idan-ha Hotel,

Boise.

Dear Sir: On receipt of your telegram yesterday

(Deposition of James T. Barber.)

morning to the effect that you were prepared to locate 26 hundred acres of unsurveyed government land, I wired Mr. McCartany who has handled this deal for us with the Northern Pacific Railroad, and am in receipt of a letter from him this morning to the effect that Mr. J. N. Hughes left St. Paul last night for Boise where he will arrive 5:15 Saturday afternoon, and I wire you to this effect.

Mr. Hughes takes an old letter of introduction to Mr. Steunenberg written to me before you went to Boise which will answer all purposes and put him in communication with you and the governor. Mr. Hughes hopes to be able to close the whole matter up on Monday morning in a few minutes at the land office. Accordingly, give him every facility possible.

Yours truly,

J. T. BARBER."

Q. Does this refresh your recollection Mr. Barber, of having written a letter of introduction prior to that time when you thought you were going to buy some scrip and the negotiations terminated and were taken up at later time?

A. I can't remember that transaction at all.

Q. September 4, you wrote a letter of introduction to Governor Steunenberg to introduce a man with the Northern Pacific Company; now he didn't go out at that time; you don't recall the circumstances?

A. Very hastily; I don't remember Mr. Bundy.

Q. Well, the correspondence will fix it?

Q. Up to that time Oct. 8-03, there had been no

(Deposition of James T. Barber.)

unsurveyed lands located by scrip by your company, had there? A. No, sir.

Q. I show you letter taken from the files of the company marked 363 1/4 is that a letter you received Oct. 17, 03 from Mr. Chapman? A. Yes, sir.

By Mr. BUNDY.—We offer that in evidence and reads:

“Boise Oct. 13-03.

James T. Barber,

Eau Claire, Wis.

Dear Sir: Enclosed are three plats showing lands upon which we have filed with the Northern Pacific scrip a total of 2640 acres. Mr. Hughes has not been able to get his filings accepted but expects to in the morning. I would like to have what estimates you have in your hands on lands on Moore's and Grimes Creeks. Can bring them back when I come if you want them there.

I think Steunenberg wrote Jack or some of them recently, he wants to lay what scrip he intends using in the Basin right away, and I would like to have it done before I leave.

Yours truly,

L. G. CHAPMAN.”

Q. I show you a letter taken from the files of the company 363 1/2; is that a letter you received from Mr. Chapman on or about its date?

A. Yes, sir.

Q. Does that letter refer to this same scrip which was procured from Mr. Phipps of the Northern Pacific Road and located on unsurveyed lands in the

(Deposition of James T. Barber.)

Crooked River country as noted in plat book?

A. Yes, sir.

By Mr. BUNDY.—It reads.

“Boise, Idaho, Oct. 14-03.

James T. Barber,

Eau Claire, Wis.

Dear Sir: The land office has rejected filings made yesterday by Mr. Hughes on the ground of the papers being incomplete. It seems that this land office has never had any experience with Railroad filings and the rejection is made to protect themselves against possible errors. Mr. Hughes has no doubt of the final acceptance of the lists and thinks it will only mean a little delay. He left for St. Paul this afternoon where an appeal will be made at once. Have made drafts to day for \$1000.00 to pay expenses of surveying party that we had in making these locations and arranged for Hosely's expense after I leave.

Yours very truly,

L. G. CHAPMAN.”

Q. I show you letter taken from the files of the company marked number 282 and ask you if that is a letter you received from Governor Steunenberg on November 2-03? A. Yes, sir.

Q. And attached to it appears to be an opinion by Mr. Garrett, receiver, does it not?

A. Yes, sir.

Q. That opinion refers to the rejection of Northern Pacific scrip to which the recent letters have referred? A. Yes, sir.

(Deposition of James T. Barber.)

By Mr. BUNDY.—We offer 282, which reads as follows:

Boise, Oct. 26-03.

James T. Barber,

Dear Sir: I am informed that the officers of the local land office have within the last day or two sent their conclusion rejecting Northern Pacific application for unsurveyed lands to St. Paul. Mr. John Blake, attorney for Mr. Borah will try to secure a copy of the decisions to-morrow and will forward same to you as Mr. Chapman and myself start on a trip to the Grimes Creek timber district tomorrow morning.”

Q. Were these opinions or letters copies of opinions sent by Mr. Garrett to you in due course as promised in that letter? A. Yes, sir.

Q. I show you letter Mr. Barber, taken from the files of the company did you receive that on Nov. 18, 03? A. Yes, sir.

By Mr. BUNDY.—We offer that in evidence.

“St. Paul, November 17-03.

Mr. James T. Barber,

Eau Claire, Wisconsin.

Dear Sir: Enclosed please find letter from Mr. Phipps with bill from Mr. Borah for your consideration. The scrip has now been laid and accepted by the land officers as of the 5th day of November. Whether any claims have come in between the 13th of Oct. and the 5th of November, nobody seems to know, although Mr. Borah writes Mr. Phipps that

(Deposition of James T. Barber.)

he didn't think there were any. We shall have to take our chances on that.

A. E. McCARTANY."

Q. Now, Mr. Barber, Mr. McCartany was going out that time as attorney for the Barber Lumber Company?

A. Yes, sir.

Q. And had charged of purchasing scrip from the Northern Pacific people?

A. Yes, sir.

Q. And had sole charge of it?

A. Yes, sir.

Q. And is the scrip referred to in that letter the scrip which is spoken of here as scrip laid on unsurveyed land in the Crooked river country in the 4 towns shown on the plat book?

A. Yes, sir.

Q. Mr. Barber, was there any way by which the location could have been designated by political subdivision prior to the times when the lands were surveyed by your corps of engineers?

A. No possible way that we could have located the lands until our surveyors had reported.

Q. And that was subsequent to the 15th of September 03?

A. Yes, sir.

Q. Mr. Barber, who made the selections of land upon which the scrip was placed in the unsurveyed territory near Crooked River?

A. I can't tell you, there was a corps of engineers engaged by Steunenberg or Chapman to make the survey.

Q. They made survey, but Mr. Hosely says that he was the man that selected the pieces?

A. That may be true.

Q. Do you recollect the time Mr. Hosely went out

(Deposition of James T. Barber.)

there to take charge of your logging in September 03? A. Yes.

Q. Where these selections made and the land selected after his departure from Eau Claire?

A. Yes, sir.

Q. At the time Mr. Hosely left here had you not sent this scrip or the papers containing scrip?

A. No, sir.

Q. Had any selection been made in that territory when he left here? A. Not of unsurveyed land.

Q. Did you have any means of knowing what lands he would select out there at the time he left?

A. No, sir.

Q. In this letter from Mr. McCartany is reference to a bill of Senator Borah; have you any recollection of that?

A. Mr. Borah's services were engaged in connection with the rejection of this first entry attempted to be made by Mr. Hughes; by whom I cannot state at the present time.

Q. Did a controversy arise between Phipps and the Barber Lumber Company as to who should pay this bill of Borah's?

A. I know that the matter was under discussion for some time and finally adjusted. I can't tell you now who paid it.

Q. Senator Borah was at that time retained by the year by the Barber Lumber Company?

A. I think he was retained on or after that time, possibly as soon than it, I don't remember the date we retained him; I think he was retained at that time;

(Deposition of James T. Barber.)

yes, sir, he was retained at that time because I think part of the controversy was based upon the fact that he was our regular attorney.

Q. I show you copy of a letter found on page 62, telegram I guess page 62 of the Company's book; is that a telegram you sent? A. Yes, sir.

By Mr. BUNDY.—We offer that in evidence, for the purpose of fixing Senator Borah's connection with the Barber Lumber Company.

“Eau Claire, Jan. 22, 03.

Hon. Frank Steunenberg,
Boise, Idaho.

Retained Borah Checkmate every move of our adversaries for franchises.

J. T. BARBER.”

Q. Prior to that time Mr. Barber, had Mr. Borah been retained as attorney for the Barber Lumber Company or by you or Mr. Moon?

A. No, sir.

Q. At that time it was reported, efforts on the part of Scofield and others to secure exclusive charters for driving and floating saw logs down the river using improvements provided for them for the purpose and Senator Borah was there; and he was retained by the year for two or three years, was he not?

A. Yes, sir.

Q. Now, Mr. Barber, it seems that at or about September, 03, Mr. Chapman went out there to take charge, but didn't stay very long; he was called back, do you remember when he went out there again?

A. I can't fix the dates, it was some time the fol-

(Deposition of James T. Barber.)

lowing year I think.

Q. After Mr. Chapman went back the second time to stay, the affairs were taken out of the hands of Governor Steunenberg at that time practically?

A. Yes, sir.

Q. And Mr. Chapman was the representative of the company? A. Yes, sir.

Q. Now, Mr. Barber, I want to take up the question of your accounting with Governor Steunenberg asking you a few questions about it and before introducing some letters it seems that you sent Governor Steunenberg and deposited to his credit something like \$248,000.00? Did he make monthly or periodical statements to you from time to time what he was doing with this money? A. No, sir.

Q. State in what manner he accounted to you for the money he did spend from time to time or what he sent you as evidence as having expended it?

A. The deeds to the property he had procured were about all that we could get out of him.

Q. Did he send with these deeds itemized statements showing how much he paid for each?

A. No, sir.

Q. And what money he spent outside of deeds then, was any statement rendered to you or any periodical statement rendered to you?

A. No, sir.

Q. State whether or not from time to time you tried to get such statement.

A. We did very frequently but were unsuccessful.

Q. Beginning at or about the time that Mr. Chap-

(Deposition of James T. Barber.)

man went out there the first time—

A. I don't remember when we commenced, but we were continually after him to render itemized statements.

Q. I show you a letter taken from the files of the company marked 112 and ask you if that is a letter you received from Mr. Palmer on August 20-02?

A. Yes, sir.

By Mr. BUNDY.—We offer this portion of the letter.

“Spokane, Wash., August 15, 02.

J. T. Barber,

Eau Claire, Wis.

Dear Mr. Barber:

Scrip.

Am keeping in touch with parties re scrip. At present I know of none at \$5.25 or \$5.30. Mr. Phipps should be able to get you some as cheap as any one if he don't want a rake off.

STEUNENBERG.

Mr. Camel says Steunenberg will complete his contract, guarantees he is perfectly honest, and claims Steunenberg thinks I am suspicious of him and for that reason has it in for me.

Steunenberg phoned me today he has seventy deeds and I send him \$5,000.00. He is to mail me tomorrow care of the Northwestern Lumber Company, complete statement of expenditures. You will *please the letter.*”

Q. Did any such statement come to the Northwestern Lumber Company as promised there?

(Deposition of James T. Barber.)

A. No, sir.

Q. I show you another letter taken from the files of the company 113; did you receive that letter from Mr. Palmer on or about its date?

By Mr. BUNDY.—We offer part of that letter.

“Montreal, August 23-02.

J. T. Barber,

Eau Claire.

Dear Mr. Barber:

P. S. Have Steunenberg send us statement of expenditure within the next few days. Please send me copy.

A. E. PALMER.”

Q. I show you copy of a letter found at page 99 of the Barber Lumber Company copy-book; is that copy of a letter you wrote Governor Steunenberg at that date? A. Yes, sir.

By Mr. BUNDY.—We offer that in evidence.

“Eau Claire, March 20-03.

Hon. Frank Steunenberg,

Caldwell, Idaho.

Dear Sir: I have your letter of the 16th naming change of amount drawn for, to \$20,000.00 which will be paid upon presentation. I want to urge you to use all dispatch in obtaining title to the timber, not only on the Boise and its forks, but also in the Basin. Kindly have titles send to us here as fast as they are taken and also send a statement of the use to which you have put the money you have drawn as we wrote you recently. We will not rest easily until we absolutely control not less than six hundred

(Deposition of James T. Barber.)

million of timber. We are compelled to leave this important part of the business for the present, and would urge you to put into it all energy possible.

Yours truly,

J. T. BARBER."

Q. I show you a letter taken from the files of the company 209, and which is already in evidence and ask you if that is the partial statement made by Governor Steunenberg made with reference to the Crooked River lands? A. Yes, sir.

Q. Does it embrace anything except his disbursements of the first \$65,000.00 sent him in the Crooked River deal? A. That is all.

By Mr. GORDON.—What is the date of that?

By Mr. BUNDY.—It is dated April 3-03.

Q. I show you copy of a letter found at page 261 the company book. A. Yes, sir.

Q. Is that a copy of a letter you wrote to Mr. Chapman? A. Yes, sir.

By Mr. BUNDY.—We offer this portion of that letter. "We received notice this day from the bank here of the arrival at sight for \$15,000.00 drawn by Steunenberg. We have declined to pay this draft without further information in regard to it and have telegraphed Steunenberg for this information. We cannot understand why he should be drawing on us for money when you have plenty of it there in Boise to meet any expenditures which have previously been authorized or which you may authorize. We trust the matter will be straightened out before you receive this letter."

(Deposition of James T. Barber.)

By Mr. GORDON.—What is the date of that?

By Mr. BUNDY.—September 28-03. No. 357.

Q. I show you a copy of letter found at page 264 of same book; is that a copy of letter you wrote?

A. Yes, sir.

By Mr. BUNDY.—We offer that in evidence.

“Oct. 2, 1903.

Mr. L. G. Chapman.

Dear Sir: We have paid the \$1500.00 draft made by Steunenberg on the statement made by wire from him that the funds in the First National have been exhausted. We must insist upon your passing upon financial matters of this kind when you are there, and we desire to take the financial matters out of Steunenberg's hands as soon as possible. We must also insist upon a detailed statement of what has been done with the money in the bank, and also this \$1500.00. We are still short of a lot of information with reference to the money heretofor sent to Steunenberg, and as we are opening a set of books it is necessary for us to have a statement of everything not covered by the contract, existing between Steunenberg and ourselves.

Yours very truly,

JAMES T. BARBER.”

Examination adjourned to May 13, 1909, at this office, 9:30 o'clock A. M.

May 13, 9:30 o'clock A. M., examination resumed.

[Deposition of P. J. Cosgrove, for the Defendants.]

P. J. COSGROVE, being first duly sworn, on oath testified in answer to the following interrogatories and questions put to him as follows:

(By Mr. BUNDY.)

Q. Mr. Cosgrove, you live at Stanley in this State? A. Yes.

Q. Do you know A. E. Palmer who formerly worked for the Northwestern Lumber Company in its office in this city? A. Yes, sir, I do.

Q. State what, if any, relation he is to you.

A. He is a nephew of mine.

Q. Where does he live at present?

A. Toronto, Canada.

Q. For how long has he lived there Mr. Cosgrove?

A. I don't know exactly, it is 5 or six years.

Q. Where did he live prior to going to Toronto?

A. Spokane, Washington.

Q. And where did he live prior to going to Spokane?

A. I think the last place he claimed as his residence before that was in Eau Claire.

Q. Where did he live before he came to Eau Claire?

A. In Buckingham Province, Canada.

Q. Where was Mr. Palmer married?

A. I think in Montreal.

Q. In Canada? A. Yes, sir.

Q. Has he lived any other place than Canada since he was married? A. Not that I know of.

Q. You have been in correspondence with him

(Deposition of P. J. Cosgrove.)

from time to time? A. Yes.

Q. When did you last see Mr. Palmer?

A. I think towards the last of September last.

Q. 1908? A. Yes, 1908.

Q. Did you know or did you meet at that time, Dr. John Watson? A. I did.

Q. Where was it you met Mr. Palmer in September, 1908? A. At his house in Toronto.

Q. And state if Dr. Watson was present at the time.

A. Not at the time I met him. I went to his house, the doctor's office was a short ways from his house, and after talking with him I went to see the doctor.

Q. Was Dr. Watson attending him at that time?

A. He was.

Q. What was Mr. Palmer's mental condition as it appeared to you in 1908?

A. It looked to me as though his memory was pretty much all gone.

Q. Could he talk intelligently on any subject for any time? A. He could not.

Q. Do you say that his inability to talk was due to liquor? A. No.

Q. Did you see him at any time when indications of liquor were noted on him?

A. I got to his house about 1 o'clock in the afternoon and was there until about 7 or 8 or therabouts.

Q. During that time did Mr. Palmer have any evidences of intoxication or drunkenness?

A. No, sir.

(Deposition of P. J. Cosgrove.)

By Mr. GORDON.—The counsel for the complainant objects to this line of testimony as incompetent, irrelevant and immaterial.

By Mr. BUNDY.—You don't fix very definitely the time when Mr. Palmer moved from Spokane back to Canada? Can you fix it within a year or two?

A. No, not closer than what I said there. I don't know just when, five or six years as near as I could get at it. He was going back and forwards, he went back and forwards a good many times. I don't know just at what time he located permanently there.

Q. After he located he lived permanently in Canada?

A. I think so, but I don't know, but that he was back to Spokane after his marriage I am inclined to think he was.

Q. But his family was in Canada?

A. Yes.

Q. Has his home been in Canada since 1905 at least?

A. Oh, yes.

Q. There has been a suspicion in the minds of the Government that Mr. Palmer is away in Canada because of a certain indictment found against him in April, 1907, about two years ago; was he residing in Canada long before that?

A. Yes.

Q. That is all.

Cross-examination.

(By Mr. GORDON.)

Q. Do you know when Mr. Palmer was married?

A. Well, I don't exactly.

(Deposition of P. J. Cosgrove.)

Q. Approximately then?

A. Well, five or six years.

Q. Did he live in Spokane several years after he married and left his family in Canada?

A. I don't know that he did; I think he was there part of a year from what I have picked up, he was part of a year there.

Q. Do you know where Mr. Palmer was born?

A. I *don*, Buckingham Province, Quebec.

Q. Do you know when he emigrated to the United States?

A. I do.

Q. When?

A. March, 1887.

Q. And he made United States his home until the time you speak of that he returned to Canada?

A. I think so.

Q. Most of the time was in Wisconsin and the State of Washington?

A. Most of the time; yes.

Q. That is all.

By Mr. GORDON.—Counsel for the complainant asks that all testimony of Mr. Cosgrove be stricken out on the ground of its immateriality, irrelevancy and incompetency.

[Deposition of James T. Barber, for the Defendants (Recalled).]

JAMES T. BARBER, recalled, testified as follows, to wit:

By Mr. BUNDY.—I show you a letter taken from the files of the company marked 360 and ask you if that is a letter you received in due course of business

(Deposition of James T. Barber.)

on the 12th day of October, 1903? A. Yes, sir.

By Mr. BUNDY.—We offer that letter in evidence or that part of it which relates to Governor Steunenberg.

“Boise, Idaho, Oct. 8-03.

James T. Barber,

Eau Claire, Wis.

Dear Sir: Steunenberg brought me his statement of receipts and disbursements on account of Basin lands this morning and is now having copy made. I will send it to you as soon as completed, either tomorrow or day following. According to his report he has only about \$350.00 on hand aside from the certified check on First National Bank account mill-site purchase. Land matters are in such shape and my stay so indefinite that I am of the opinion that he will have to attend to handling them for the present and made final account when he has taken up such claims as he now expects to be able to get. He has titles that he can take immediately in the Basin requiring about \$3,000 and on Crooked River requiring about \$10,000 now and will want \$5,000 more about November 30th. He will make draft today for \$13000.00 to take up what there is in sight now.

I have drawn today through the First National here for \$1000.00 which I will use in getting Hosely such equipment as he needs to go into the woods. He will have to have a team, wagon, etc. We are trying to get him away today as there is much for him to do while the weather permits. Will write you more fully about the Steunenberg account when I

(Deposition of James T. Barber.)

send his statement.

Yours truly,

L. G. CHAPMAN."

Q. That letter is dated Oct. 8-03; can you tell from that fact what Mr. Hosely was going to do when you got him fixed up with equipment?

A. I don't think I can tell, only in a general way, that he was fixing himself for an unsurveyed land trip.

Q. I show you copy of letter found at page 280 of the copy-book of the company; is that a copy of a letter you wrote and mailed to Mr. Chapman that date? A. Yes, sir.

By Mr. BUNDY.—We offer it in evidence.

"Eau Claire, Oct. 30-03.

Mr. L. G. Chapman,
Boise, Idaho.

Dear Sir: Mr. Carson has decided that he will not stop in Boise on his trip west. This being the case I think it would be well for you to finish your negotiations with the Governor, secure from Steunenberg financial statement showing the cost to us of the timber purchases made by him. Give Hosely his last final instructions and come east as soon as these matters are arranged.

We will have a meeting in St. Paul soon after you return at which we will consider many of the questions which you will have to present, such as the obtaining of the franchises for driving logs on the river, etc.

Yours truly,

JAMES T. BARBER."

(Deposition of James T. Barber.)

Q. I show you copy of a letter found at page 380 of the copy-book of the company book and ask you if that is a letter written by your cashier and sent by him, Mr. Cotten to Governor Steunenberg?

A. Yes.

By Mr. BUNDY.—We offer that in evidence.

“Eau Claire, June 21-04.

Hon. Frank Steunenberg,

Dear Sir: Your favor of the 12th was received during the writer's absence. Think Mr. Moon has already advised you with reference to the annual meeting. In regard to the statement will say, that what we want is a statement from you commencing with the balance of the account as per your last statement and bringing the account up to date. We have written up on the books all the items from your previous statement, although they are not in just the form that we would like them. Think statement should be made continuous, that is each statement should show the moneys received, moneys paid out and the balance of cash on hand at the date of rendering statement, and each succeeding statement should begin with the amount of cash on hand as shown by the preceding statement. In this way we can tell whether we have made commissions or not as we can prove our account by the balance shown in your statement. We are very much disappointed that the statement is not here as it is quite important that the books be written up without further delay. We trust you will make it out to say June 25th, inclusive, and forward it to us so it will reach us not

(Deposition of James T. Barber.)

later than the 30th. Writer has just returned from an absence of nearly two weeks or your letter would have been given more prompt attention.

Yours very truly,

BARBER LUMBER COMPANY,

Per F. H. L. COTTEN."

Q. I show you copy of a letter found at page 386 of the company copy-book; is that a letter you mailed and wrote Governor Steunenberg on that date? A. Yes, sir.

By Mr. BUNDY.—That is offered in evidence.

"Eau Claire, June 25, 04.

Hon. Frank Steunenberg,
Boise, Idaho.

Dear Sir: I have not been paying much attention to the details of this company's land matters. I find now however, that we have practically nothing in this office to indicate the extensive transactions which have taken place under your directions. All deeds, records and memorandums of whatever nature must be in this office and we would direct you to place upon record, if that has not already been done, all of the deeds to the lands of whatever character running to the Barber Lumber Company at once and forward them to this office promptly. In the meantime all papers bearing on this question, and all deeds already recorded should be sent here without any delay. I also find quite a large undigested account between you and the company for moneys forwarded at various times for investment and for which we must insist upon receiving a full and com-

(Deposition of James T. Barber.)

plete account showing disposal of the same. The business affairs of this company have reached a point where it is necessary that a complete system of records should be established here as this still remains the main office of the company. Kindly attend to this promptly.

Yours very truly,

JAMES T. BARBER,

President.

P. S. Whenever you do business for this company complete statements of all transactions must be made monthly."

Q. I show you copy of a letter found at page 145 of the company book and ask you if that is a copy of a letter sent by and written in the handwriting of S. G. Moon, Secretary? A. Yes, sir.

By Mr. BUNDY.—I think it is Eau Claire, June 8-03,

"Hon. Frank Steunenber,
Caldwell, Idaho.

Dear Sir: Preparatory to our opening our new set of books, we wish you would make us a statement of all money received and expended by you. Please make same as specific as possible, and oblige,

Yours truly,

S. G. MOON,

Secretary."

[**Deposition of S. G. Moon, on Behalf of the Defendants (Recalled).**]

S. G. MOON, recalled as a witness, testified as follows:

(By Mr. BUNDY.)

Q. I show you two letters which seem to be fastened together, one marked 279 and the other 280. Number 279 dated Oct. 5-03 and number 280 dated July 7-03, both being letters signed by Frank Steunenberg and which contain statements. Taking number 280 up first, are these statements received by you as secretary of the Barber Lumber Company from Governor Steunenberg in which he made statement of his receipts and disbursements in what is known as the Crooked River transaction in 280; in what is known as the Basin transactions in 279?

A. Yes, sir.

Q. I will ask you as to whether or not these statements constituted the only statements made up to the statements shown you, of his receipts and disbursements in these two enterprises, excepting the partial statement of Crooked River receipts and expenditures made on April 3-03, and which is in evidence here as 209?

A. So far as I know, yes, sir.

Q. Statement shown you 279, purports to be a statement of receipts and disbursements in acquiring the items in the Basin, does it not?

A. Yes, sir.

Q. The statement 280, purports to be a statement of receipts and disbursements made in the ac-

(Deposition of S. G. Moon.)

count of purchases of timber lands on Crooked River up to July 7-03; does it not?

A. Yes, sir.

Q. I notice on 279 some computations in pencil, signed "Cotten"; that is in the handwriting of your Cashier, Mr. Cotten, is it not?

A. Yes, sir.

Q. I find on the last page of 280, certain computations in pencil, also signed "Cotten"; these computations are in his handwriting?

A. Yes, sir.

Q. And also the notation in blue pencil is in his handwriting?

A. Yes, sir.

By Mr. BUNDY.—We offer these in evidence and reads as follows:

Boise, Idaho, Oct. 5th, 1903.

S. G. Moon, Sec. Barber Lumber Co.,

Eau Claire, Wisconsin.

Dear Sir: I herewith submit statement of cash received and disbursed in purchasing certain interests of William Sweet, and in acquiring title to lands on Grimes' and Moore's Creeks.

Boise County, Idaho.

Very truly,

FRANK STEUNENBERG,

(Deposition of S. G. Moon.)

Boise, Idaho, Oct. 1st, 1903.

Dr.

Apr. 10, 1902.	Received from A. E. Palmer (check to Wm. Sweet) account Wm. Sweet's investment in timber lands.....							\$21,950.00	
" " "	Received from A. E. Palmer (check to Wm. Sweet) account Wm. Sweet's profit.....							\$10,975.00	
" " "	Received from A. E. Palmer account titles ...							\$ 5,800.00	
Apr. 11, 1902.	Received from A. E. Palmer account "							\$ 1,200.00	
Apr. 25, "	"	"	"	"	"	"	"	....\$ 825.00
May 2, "	"	"	"	"	"	"	"	....\$ 250.00
June 16, "	"	"	"	"	"	"	"	....\$ 5,000.00
" 25, "	"	"	"	"	"	"	"	....\$ 5,000.00
" 26, "	"	"	"	"	"	"	"	....\$ 5,000.00
" 30, "	"	"	"	"	"	"	"	....\$ 5,000.00
July 7, "	"	"	"	"	"	"	"	....\$ 5,000.00
July 21, "	"	"	"	"	"	"	"	....\$10,000.00
Oct. 4, "	"	"	"	"	"	"	"	....\$ 5,000.00
Nov. 6, "	"	"	"	"	"	"	"	....\$ 3,000.00
Dec. 2, "	"	"	"	"	"	"	"	....\$ 6,000.00
Apr. 10, "	Frank Steunenberg's investment.....							\$ 3,750.00	
								<u>\$93,750.00</u>	
								Less Sweet's profit (as above).....	\$10,975.00
								<u>\$82,775.00</u>	
Apr. 10, 1902.	To date, paid for 97 titles (full claims) and for Sherman and Jennie Thompson claim (120) acres.....							\$78,200.00	
Apr. 10, "	To date, advanced to purchasing agent.....							\$ 3,712.00	
Mar. 23, 1903.	Paid Samuel and Emma Swan, acct. mortgage SE. ¼ Sec. 35 Tp. 8 R. 5 E. and SW. ¼ Sec. 25 Tp. 7 R. 5 E.....							\$ 1,393.50	
								<u>\$83,306.00</u>	
Aug. 15, 1902.	Paid P. H. Downs for cruising and estimating scrip "forties" in 6-5 & 8-5.....							\$ 250.00	

Boise, Idaho, July 7, 1903.

S. G. Moon, Sec. Barber Lumber Co.,

Eau Claire, Wis.

Dear Sir: I have the honor to report the following receipts of funds from the Barber Lumber Company and disbursements of the same, account the purchase of timber lands situated on Crooked River,

(Deposition of S. G. Moon.)

Boise County, State of Idaho, also partial purchase of certain lands for a mill site near Boise City, Ada County, Idaho, and incidental features connected therewith, also attorneys fees and items of incidental and personal expense. Owing to the fact that my data and record of operations is somewhat scattered it may be found later that this report is not absolutely complete and correct. There are also some items of expense which I have incurred, viz.: payment of \$200 to Mr. A. B. Campbell of Spokane, Washington, for services rendered in connection with government timber inspector, and my own personal expenses for trip from Idaho to Eau Claire, Wisconsin, Washington, D. C., and return, last December and January (about \$200) further disposition of which I will take up with you or Mr. Barber when I see you personally.

Very respectfully,

FRANK STEUNENBERG.

RECEIPTS.

February	11, 1903	.....	\$20,000.
"	14, "	.....	\$25,000.
"	18, "	.....	\$ 100.
(Excess see disbursements below)			
March	16, 1903	.....	\$20,000.
April	8, "	.....	\$10,000.
May	6, "	.....	\$ 7,500.
Total	.....	.....	\$82,600.

DISBURSEMENTS.

July	7, 1903.	78 Titles at \$950.	\$74,100.
Dec.	5, 1902.	Cash advanced to Taylor account expenses	
		trip to Crooked River	7.00
Dec.	26, "	Telegram Eau Claire-Moscow F. S. to C. B. S.	1.05
"	26, "	Telegram Moscow-Eau Claire, C. B. S. to F. S.	1.05

"	"	"	Telegram Eau Claire-Boise, F. S. to Kinkaid,	1.17
Jan.	20,	1903.	Cash advanced to Taylor account traveling expenses trip to Crooked River	75.00
Jan.	18,	"	Telegram Boise-Eau Claire, F. S. to Barber Lumber Company	\$ 2.05
Jan.	20,	1903.	Maps Boise City and vicinity, mailing tube and express Boise to Eau Claire	2.50
Jan.	21,	"	W. E. Borah before Land Board.....	350.00
Jan.	21,	"	W. E. Pierce & Co., advance payment on options	\$1,100.00
			Payment to Coston	\$500.
			" " Drake	100.
			" " Bedal	200.
			" " McMahon	100.
			Excess returned	100.
				<u>1100.</u>
Jan.	22,	1903.	Board (self) Idanha, Jan 16-22	\$ 15.00
Jan.	24,	"	Forwarding charges on telegram .....	.35
Jan.	30,	"	Board (self) Idanha, Jan. 23-30	11.50
				<u>\$75,666.67</u>
Feb.	14,	1903.	Board (self) Idanha, Feb. 2-14	27.50
Feb.	20,	"	Miss Rubin, typewriting	2.00
March	15,	"	Mailing tube and express to Eau Claire.....	.50
March,	17,	"	Board (self) Idanha, Feb. 17-21, March 8-14	25.25
April	3,	"	Express deeds to Eau Claire .....	.60
April	8,	"	W. E. Borah, one-half year retainer to July 1, 1903,	600.
April	7,	"	Board (self) Idanha, March 18-20, March 24-25, March 31-April 2, April 4-7	20.75
April	10,	"	C. C. Stevenson, balance survey, etc.	86.50
April	15,	"	W. H. Taylor, balance trip to Crooked River, including work done last October and November	253.82
April	23,	"	Board (self) Idanha, April 16-23	17.50
April	23,	"	Wire to Rawlins, Wyo. ....	.50
April	27,	"	W. E. Pierce & Co. May payment on Coston option	125.00
May	2,	"	Telephone, First National Bank, Boise, to F. S. ....	.25
May	2,	"	Telephone, Taylor to F. S. ....	.25
May	6,	"	Forwarding charges, telegram .....	.75
May	6,	"	Kate and Joseph Perrault, land	7,500.00

May	16,	"	Express deeds to Eau Claire .....	.25
May	16,	"	W. E. Borah, fees for abstracts, recording Perrault deed, filing articles of incorpora- tion, Barber Lumber Company	51.70
June	1,	"	W. E. Pierce & Co., June payment Coston option	125.00
June	2,	"	Miss Fraser, typewriting Wiley report	4.00
				<hr/>
				\$ 8,842.12
				<hr/>
				\$84,508.79
June	9,	"	Board (self) Idanha, April 27-28, May 1, May 8-10, May 12-17, May 26-31, June 2-3,	55.25
June	10,	"	Miss Rubin, Typewriting,	3.00
June	13,	"	Board (self) Idanha	12.50
June	12,	"	Wire to Cheynne, Wyo., F. S. to Wiley....	.50
June	12,	"	Wire " " " " " ...	.50
June	16,	"	Answer from Wiley " ...	.50
July	7,	"	———— Buchanan, Taylor helper trip to Crooked River, Oct. 19, 1902,	27.00
				<hr/>
				\$84,608.04

Q. I now show you a statement taken from the files of the Barber Lumber Company 2801½, the first three pages of which are copies of the two statements just put in evidence. Are they not or appear to be? A. Yes, sir.

Q. And the remaining pages commencing with page 4 purports to be a continuation of the report made by Steunenbergh, dated July 7-03, does it not?

A. Yes, sir.

Q. And the *eight* page of which purports to be a continuation of his report of October 5-03, does it not? A. Yes, sir.

Q. And the 9th page does, or purports to state an account of personal expenses incurred from March '02 to Jan. 1st, '03, by Mr. Steunenbergh?

A. Yes, sir.

(Deposition of S. G. Moon.)

Q. Do you know where that statement was made, these continuations of reports were made?

A. I think they were made in our office.

Q. And who if anyone made it?

A. As I recall it Mr. Steunenberg dictated it to a stenographer.

Q. And who if anyone assisted Mr. Steunenberg as to the form of it?

A. When Mr. Steunenberg came there, I think I turned him over to Mr. Cotten and told him to make a statement to Mr. Cotten, and Mr. Cotten indicated, I think, the form in which he wanted the statement rendered. Mr. Cotten will tell about that.

Q. Is that statement shown you 2801½ the last statement ever made to you or to the Barber Lumber Company by Governor Steunenberg of the money sent to him and disbursed by him?

A. So far as I know.

Q. Did you ever see or hear of any statement other than that?

A. No, not that I remember of.

Q. And that statement number 2801½ shows a balance due from Steunenberg as of July 1st, '04, of \$6,763.25, does it not? A. Yes, sir.

Q. Now, you look at Governor Steunenberg's account, ledger account on page 3 of the ledger of the Barber Lumber Company, and I ask you as to whether or not there are any charges subsequent to July 1st, '04, except one of \$1.50 on August 31st, and a charge of \$6,710.50 on December 19th?

A. No, sir.

(Deposition of S. G. Moon.)

Q. Referring to page 14 of the journal can you tell us what that \$1.50 was for?

A. Collection on A. E. Palmer draft of April 25, '02, \$1.00. Error in addition on first page Steunenberg Oct. 5, '03, statement \$.50, referring to page 16 of the journal, can you tell us what is the item of \$6,710.50 which is credited to Steunenberg on December 19th?

A. Yes, sir, that was when the account was transferred to Boise office. Balance of Steunenberg account \$6,710.50.

Q. In my questions relative to that \$1.50 I said he was charged, it should be he is credited with \$1.50, it should be his account was not credited or charged with anything.

Q. When the account was transferred to the Boise office on December 19th all of the accounts of the Barber Lumber Company were there transferred?

A. Yes, sir.

Q. And no charges had been made on any personal account here, except stock subscription account, that is all.

A. I think so, so far as I know.

By Mr. BUNDY.—We offer in evidence this statement 280½.

Beginning with the 4th page reads as follows:

Barber Lumber Co.

In account with,

Frank Steunenbergl.

Continuation of Report of July 7, 1903.

1903.

July	7.	To Balance per statement	2,008.04	
June	24.	By cash, Sent First Nat'l Bank		50,000.00
"	27.	To John McMahon, 2d partial payment on land, millsite	500.00	
"	"	" I. N. Coston, final payment on land, millsite	26,750.00	
"	"	To Isaac Bedal, final payment on land, millsite	2,550.00	
"	29.	To Wm. Drake, final payment on land, millsite	5,100.00	
July	1.	To Miss Rubin, typewriting	3.00	
"	2.	" W. E. Borah, fees and costs in filing suits to quiet titles, McMahon land,	50.00	
"	21.	To Miss Bush, typewriting	1.60	
Aug.	26.	" Idan-ha Hotel, Board (Self) June 13-July 31	54.55	
"	7.	To James Stephenson, maps for B. L. Co., showing Forest Reserves	2.00	
"	14.	To Pat Downs—per diem and expenses, trip to Crooked River and North Fork with G. D. Hoseley	38.00	
"	"	" John I. Wells, expenses, trip to Centerville, account forest fires, ...	21.00	
Sept.	1.	" F. Steunenbergl—Expenses, trip to Basin, account forest fires	30.00	
"	18.	By Cash sent Commercial Bank, Cald- well		1,500.00
"	26.	To Geo. T. Young, Centerville, expense fighting fire	167.00	
Oct.	2.	To Bogart & Mickey, abstracts and maps, acct. McMahon title, quieting case in Probate Court	8.00	

Oct.	9.	By Cash sent Commercial Bank, Caldwell		10,000.00
"	13.	To Stamps, stationery, incidentals,...	25.00	
"	"	" Pat Downs—per diem and expenses trip to Crooked River and North Fork, in connection with laying N. P. scrip on unsurveyed land	36.00	
			37,344.19	61,500.00
Oct.	13.	" Wm. Gulliford, saddle horse for Chapman, account stripping land,	12.50	
"	23.	" John McMahon, 3d partial payment on land, millsite	700.00	
"	"	" John McMahon, final payment on land, certified check in escrow, First Nat'l Bank, Boise	5,000.00	
"	24.	" A. C. Thompson, livery bill, trip to Basin, various trips of surveyor, Chapman, and self, to millsite and Highland dam	43.00	
"	29.	" Idanha Hotel, Board, self, July 29-Sept. 30	88.10	
"	29.	" Trip to Basin with Chapman.....	30.00	
Nov.	16.	" J. H. Meyers, stage fare, trip to Idaho City	7.00	
"	17.	" Trip to Twin Falls with Chapman ..	40.00	
Dec.	1.	" W. E. Borah, bal. salary as atty. for 1903,	600.00	
"	14.	By cash sent 1st Nat'l Bank, Boise		10,000.00
"	14.	To expense in trial cases	100.00	
"	"	" " "	200.00	
"	28.	By cash sent 1st Nat'l Bank, Boise,		12,600.00
"	29.	To L. L. Folsom, Assessor, Ada County, Taxes, Drake	8.50	
		Rand,	13.29	
		Bedal	9.00	
		Coston	91.37	122.16
"	30.	To expense in trial cases	380.00	
"	"	" Geo. F. Redway, Cashier, 1st Nat'l Bank, Boise, Taxes on timber land in Boise County	2,500.00	
"	"	" Geo. F. Redway, Cashier, 1st. Nat'l Bank, Boise, exchange	2.75	
1904.				
Jan.	2.	" Idaho Statesman, subscription for one year	7.00	
			47,176.70	84,100.00

		Forward,	47,176.70	84,100.00
Jan.	2.	To Expense in trial of cases	20.00	
"	"	" John Kinkaid, taxes on timber claims in Boise County, viz.:		
		Kinkaid	14.00	
		Downs	14.00	
		Cassell	14.00	42.00
"	4.	" W. S. Galbraith, Board self at Idaho City and subscription to Boise County News		6.00
"	"	" C. S. Koelsch, per diem and ex- penses, trip to Idaho City, acct. taxes on timber land		25.00
"	7.	" G. D. Hoseley, Atty.	250.00	
Feb.	3.	By cash sent 1st Nat'l Bank, Boise, through W. E. Borah		6,600.00
"	22.	" Cash sent 1st Nat'l Bank, Boise, through W. E. Borah		10,000.00
Mar.	18.	To Capital News, subscription	5.00	
"	25.	" Miss Yaeger, Typewriting	2.00	
"	28.	" Miss Rubin, "	10.00	
"	"	" W. R. Lake, 1st partial payment on scripminutes and posting.	100.00	
"	"	" Pat Downs, posting notices on scrip locations, 1st posting.....	200.00	
April	1.	" Idan-ha Hotel, Board and lodging self, Oct. 1, 1903,-March 31, 1904...	211.25	
"	"	" L. M. Pritchard, typewriting	4.50	
"	19.	" A. T. Ingalls, surveying McMahon lands	15.50	
"	"	" W. R. Lake, 2d partial payment on scrip minutes and posting	100.00	
"	5.	" Idan-ha Hotel, Board, self, April 1- June 5th,	102.00	
"	"	" Stamps and typewriting	10.00	
"	17.	" Mose Kempner, partial payment on land, Beaver Creek Meadows	25.00	
June	1.	" W. E. Borah, salary as attorney, to July 1, 1904	600.00	
			<hr/>	
			49,004.95	100,700.00

vs. The Barber Lumber Company.

4609

		Forward	49,004.95	100,700.00
July	1.	To Disbursements by W. E. Borah between Feby. 22d and July 1st: C. A. Thompson, livery team for Hoseley 2.50 Pan Handle Abstract Co. .. 8.00 Kate Gorman, recorder, Boise County, recording Deeds .. 39.80 John Kinkaid, services ....200.00 J. J. Blake, " 3.50 Tom Calahan, services in McMahon probate matter, 100.00 Jonas Brown, fees in Probate Court 30.00 Kate Gorman, Recorder, Boise Co., recording deeds ....198.00	581.80	
"	1.	" Seventeen titles on Crooked River and North Fork at .....950.00	17,150.00	
"	"	" Five titles on North Fork at 800.00 Note.—The above 22 titles were taken subsequent to report of July 7, 1903.	4,000.00	
"	"	" Twenty-five titles in Tps. 6-4 and 5-4 at .....800.00	20,000.00	
"	"	" Two titles, same tps., at ..1,100.00	2,200.00	
"	"	" One title, same Tps., at ..1,000.00	1,000.00	
		Balance	6,763.25	
			100,700.00	100,700.00

1904.

July	1.	By Balance	\$6,763.25
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Barber Lumber Co.

In Account with,

Frank Steunenberg.

Continuation of Report of October 5, 1903.

1903.

Oct.	5.	To Balance, as per statement	781.00	
"	9.	By Cash sent Commercial Bank, Caldwell		3,000.00
Nov.	1.	To one title at \$800.00.....	800.00	

1904.

July	1.	To one title, balance on John I. Wells	412.50	
		Balance,	1,993.50	3,000.00
			1,006.50	
			3,000.00	3,000.00

1904.

July	1.	By Balance	\$1,006.50
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Barber Lumber Company,
 In Account with
 Frank Steunenberg.
 Personal Expenses.

Personal Expenses incurred March, 1902, to January 1, 1903.

1902.

July 1.	To Geor. M. Parsons, Atty. before Land Office.....	400.00
Sept. 29.	To Mrs. Gillespie, room rent during July, August and September.....	24.50
“ “	To Mrs. H. C. Branstetter, board during July, August and September.....	22.00
Nov. 12.	To Trip to Tacoma, Senator Foster.....	50.00
Dec. 2.	“ Bank of Commerce, Boise, Exchange on checks of A. E. Palmer, April 10, 1902, to date..	40.00
“ 13.	To Idan-ha Hotel, Board during March, April, May, June, July, August, September and December.....	122.75

1903.

Jan. 1.	To Trip to Spokane, Eau Claire, Wis., Washington, D. C.....	200.00
“ “	To A. B. Campbell, Spokane, Services account special agent.....	200.00

1059.25

(Deposition of S. G. Moon.)

Q. I show you copy of letter found at page 278 of the copy-book of the company and ask you, Mr. Moon, if that is a copy of a letter you wrote and mailed Mr. Chapman on date shown?

A. Yes, sir.

By Mr. BUNDY.—We offer that in evidence.

“Eau Claire, Feb. 4-04.

L. G. Chapman,
Boise, Idaho.

Dear Lawrence: I have your of the 17th inst. inclosing list of deeds held by Steunenberg and note what you say with reference to said lands, etc. Don't forget to have Steunenberg send statement of last years Basin operations before you leave Boise.

Yours truly,

S. G. MOON.”

Q. I show you copy of a letter found on page 323 of the copy-book of the company; another copy of letter you wrote and mailed to Mr. Chapman on that date? A. Yes, sir.

By Mr. BUNDY.—We offer that in evidence. It reads:

“Eau Claire, Feb. 4-04.

Mr. L. G. Chapman,
Stanley, Wis.

Dear Lonz: We have not yet received our report of expenditures from Steuneneberg. We think you had better write him that we must have this right away. Have him make it in such shape that together with his old statement, we can tell just what money he has received from us, what he has spent

(Deposition of S. G. Moon.)

and what balance he has on hand, and think he should hereafter render a monthly statement the first of each month.

Yours truly,

S. G. MOON."

That letter was written, Mr. Chapman, after his return from Boise, the first time, was it not?

A. Yes, sir.

Q. I show you copy of letter found at page 342 of the copy-book of the company and ask you if that is a copy of a letter you wrote and mailed Governor Steunenberg on the date shown? A. Yes, sir.

By Mr. BUNDY.—We offer that in evidence.

"Eau Claire, March 21-04.

Hon. Frank Steunenberg,

Caldwell, Idaho.

Dear Sir: We have advices from Washington to day that the committee on public lands has practically agreed on the Mondell bill in a form which it seems to me will, if it passes, knock out any scrip which we have on hand when the bill is passed. We should use every effort to get all of our scrip laid on lands carrying eight thousand feet or more to the acre of timber.

Personally we have not been able to see any good reason why this scrip was not laid long ago. I do not understand that it will be very difficult now to find the lands on which it can be laid, but it would have been easy a year or so ago. We feel now that every effort must be made to lay the rest of the scrip before the Mondell bill becomes a law, even if we

(Deposition of S. G. Moon.)

have to go into the Moore's Creek Basin for a part of it.

We trust you will complete your financial report up to date with as little delay as possible as we have not yet opened our books and we cannot well do so until we have your report. We think it would be best hereafter if you would make a monthly report showing money on hand at the beginning of the month and the moneys paid out during the month. We see no reason for delay in putting on record of all of the deeds which we sent you for that purpose some months ago.

We trust you will tend to having this done as fast as practicable.

Yours truly,

S. G. MOON,
Secretary."

Q. Mr. Moon, what did you refer to in that letter by saying that you could see no good reason why scrip had not been laid long ago?

A. Well, I could— It had been our original intentions to scrip lands in the Basin. We had bought scrip for that purpose and sent it to Governor Steunenberg, and he held it there for the purpose of placing it on lands covered by his contract, and he hadn't done it; that is all the explanation I can give.

Q. Was that true with reference to 6-4, in Crooked River? A. Yes, sir.

Q. I will ask you, Mr. Moon, as to whether during your entire connection with Governor Steunenberg you were urging the placing of scrip and he was

(Deposition of S. G. Moon.)

making excuses for not doing so? A. Yes, sir.

Q. That was true from the beginning to the end, was it not? A. Yes, sir.

Q. I show you copy of letter found at page 373 of the copy-book of the company and ask you if that is a copy of a letter written by your company by Mr. Cotten, cashier? A. Yes, sir.

By Mr. BUNDY.—We offer that in evidence.

“Eau Claire, May 28-04.

Frank Steunenber,

Caldwell, Idaho.

Dear Sir: The writer has been instructed to open the books for the Barber Lumber Company and in looking over the papers, I find that we have not a statement from you covering your financial transaction to date. We desire to open the books and have everything complete and up to date, and Mr. Moon requests me to ask you for a statement covering your dealings up to June 1st, 04. In sending statement kindly show all expenditure and give sufficient information with each item to enable us to determine what account should be charged, etc. Also show balance of cash on hand, in bank and elsewhere, so we can verify our account with you. Kindly give this your immediate attention, as it is absolutely necessary that we have a statement at once.

Yours very truly,

BARBER LUMBER COMPANY,

By F. H. L. COTTEN.”

Q. I show you a letter from the files of the company, number 323; is that a copy of a letter you re-

(Deposition of S. G. Moon.)

ceived from Governor Steunenberg on or about that date? A. Yes, sir.

Q. We offer that letter in evidence, the part referring to financial statement, reads as follows:

“Boise, Idaho, June 6-04.

S. G. Moon, Secretary,

Eau Claire, Wis.

Dear Sir: Since my return home from Washington I have been unable to complete my report of financial operations at different times. Since my return when I did have the opportunity I have felt so indisposed on account of a continued nervous neuralgia attack, that I could make no headway. Am feeling much better since warm weather has set in, that I have no fear of being able to close up rapidly. Within the last day or two, I collected the deeds taken by Mr. Borah, Mr. Kinkaid and others during my absence and report the following number of titles on hand; Boise Basin 12 titles, including the mortgage of Sam and Minnie Swan for 320 acres; Crooked River, 100 titles; township 6 north, 4 east, 25 titles; scrip, 4,160 acres; this does not include the Northern Pacific acreage. We still have on hand 1,840 acres of Forest Reserve scrip and will lay it as soon as possible on the very best land obtainable, unless otherwise directed. Mr. Hosely reported against the tract on Rattle Snake (unsurveyed*). I directed Hosely a few days ago to proceed to Rabbit Creek and investigate the timber there and also report on the driving possibilities of the Creek. There are a number of claims in that section that are on the

(Deposition of S. G. Moon.)

market here. Hosely made a trip in there on the snow last December. His impressions were favorable. Expect him out soon.

Very truly,

FRANK STEUNENBERG.

P. S. There are a few more claims in 7-5 and 6-4, etc. About 7 in all that I will take in a few days."

Q. I show you a letter taken from the files of the company, marked 337. Stamped with a stamp indicating it was received July 5-04, being a letter addressed to James T. Barber; is that a letter received by your company and on file in the papers from Steunenberg and addressed to the President of the Barber Lumber Company? A. Yes, sir.

By Mr. BUNDY.—We offer that in evidence. It reads:

"Boise, July 1st. -04.

James T. Barber, President.

Barber Lumber Company,
Eau Claire, Wis.

Dear Sir: I have your of June 25, relative to deeds, records, papers, etc., and financial report. Regarding deeds, etc., will say that all deeds except five have been recorded. List sent Mr. Moon yesterday, and that about 120 patents will be recorded by the time you receive this letter. I notified Mr. Moon or Mr. Cotten some days ago that I expected to be in Eau Claire at the time of the postponed Annual Meeting, and that I would bring my report with me. It was not until a few days ago that I received word that the Annual Meeting was not postponed. I feel that

(Deposition of S. G. Moon.)

certain portions of my report and the situation here. as well as my own relations with the company would be better served by personal statement. With this in view I expect to start for Eau Claire not later than next Wednesday. Would start at once but have to attend court as a witness early next week.

FRANK STEUNENBERG."

By Mr. BUNDY.—There is a little in this letter about state lands.

Q. Can you fix time approximately when Governor Steunenberg arrived here with the date from which he made his last report to you which were continuations of the last two reports received?

A. It was some time in July, 1904.

Q. Now, did you personally go over, with Governor Steunenberg, the various items of credit which he was claiming against your company?

A. No, sir.

Q. Who audited the account which he rendered at that time?

A. I don't know as it was exactly audited. He came to make his report and we turned him over to Mr. Cotten and told him to make his report to Mr. Cotten, and with Mr. Cotten's assistance with reference to the form, got up a report which he left with us and which we put on the books as he rendered it.

Q. On the last 5 pages of this statement 280½, I find after each item lead pencil notations indicating to what amount such item should be charged; in whose handwriting are these notations, if you know?

(Deposition of S. G. Moon.)

A. Mr. Cotten's.

Q. That is true with all the items on that statement, is it not?

A. Yes, sir; I will say here that it was always our intention to have a final report from Mr. Steunenberg which we expected to get out more carefully, as these reports from time to time were not considered final, and didn't receive from me or Mr. Barber the attention which they should have received and would have received had they been final reports.

Q. They were in the nature of claims made against you for which credit was given him?

A. Yes, sir.

Q. Mr. Moon, did I ask you anything about certain claims filed by Arthur Anderson, Nugent, Hunter, Ball and Wells?

A. I don't think so; I don't remember your asking, but I think you asked Mr. Barber.

Q. Did you know at the time that Governor Steunenberg was here at Eau Claire or at the time the deal for Sweet's interest was closed by Mr. Palmer, that the five men I have named had made timber and stone entries in the Boise Basin?

A. No, sir.

Q. Did you know of any contest cases having been filed against their claims? A. No, sir.

Q. Did you know of any appeal having been taken by them or any of them from the decision of the local land office? A. No, sir.

Q. I will ask you as to where you first heard of these cases, these entries and these appeals?

(Deposition of S. G. Moon.)

A. So far as I know, the first that I heard of them was with reference made to them in this action.

Q. In this action or indictment?

A. It was in the indictment, yes.

Q. Did you personally or acting for the company at any time authorize Steunenberg or any other person to expend any money in defending the titles or claims of the five gentlemen I have named?

A. No, sir.

Q. Did you authorize the expenditure of any money or of employment of any attorney in taking appeals from the decisions in these cases?

A. No, sir.

Q. Did you know at any time, or do you know now of the fact that any money belonging to the company or to yourself or Mr. Barber was expended for that purpose?

A. No, sir.

Q. Have you any knowledge on the subject other than the allegations you find in the indictment and in this complaint?

A. No, sir.

Q. Did Governor Steunenberg at any time ask you to repay or attempt to collect from you and Mr. Barber or from the company, any money which he claimed he had expended in these contests or appeals?

A. No, sir.

Q. Did Governor Steunenberg or any other person prior to the indictment and filing of this suit have any talk with you or with them relative to these contest cases or appeals?

A. No, sir.

Q. At the time of Governor Steunenberg's death had you ever had this final statement that you ex-

(Deposition of S. G. Moon.)

pected to have? A. No, sir.

Q. At the time of his death state as to whether or not he was indebted to you or the company, or the company was indebted to him.

A. He was indebted to the company.

Q. Can you state approximately how much money he was indebted to the company?

A. Why, as I recollect it, six or eight thousand dollars.

Q. And did that indebtedness arise from excess of money sent him from what he had accounted for?

A. Yes, sir.

Q. On this last statement made to you by Governor Steunenberg here at Eau Claire in July, 1904, we find the following item: "December 14-03 to expense in trial cases \$100.00; December 14, to expense trial of case, \$200.00; December 30-03 to expense trial cases, \$380.00; January 2-04 to expense in trial of case, \$20.00," making an aggregate of \$700.00, charged in December 03 and January 04; under the head of "Expenses in trial cases"; were you informed or did you learn at that time or at any time as to what these items referred to?

A. No, sir.

Q. Did Governor Steunenberg advise you or tell you what cases they referred to?

A. No, sir, not that I remember of. I don't think he went over that report with me in detail at all.

Q. I see Mr. Cotten has noted after it, it was charged to attorney's fees. That was not at your direction, was it?

(Deposition of S. G. Moon.)

A. No, sir, I think he put that down attorney's fees because Steunenberg told him to.

Q. I show you a letter taken from the files of the company marked 334 and ask you if that is a letter received by you as Secretary and from Governor Steunenberg on or about that date?

A. Yes, sir.

Q. I notice that the correspondence shows that Governor Steunenberg reported to you from time to time, that he had acquired or purchased a certain number of titles without giving the details of what titles they were. I mean of the person from whom he had purchased, except in so far as will be shown by the deed sent you. This document 334 purports to be a list of lands which the Barber Lumber Company has title, initiatory, and including a large amount of lands which appears to have been entered by unsurveyed scrip. I ask you as to whether or not the reference to initiatory titles refers to scrip lands on which titles had not been perfected?

A. Yes, sir, that is my understanding of it.

Q. I will ask you if this statement 334 was the first and only detailed statement made to you or the company by Governor Steunenberg showing the names of the persons from whom purchased, description of the land and the details of the scrip transaction?

A. So far as I remember, yes.

Q. I don't want to bother reading that all into record, but we will offer it into evidence for the sake of fixing the time when it was received; that letter is dated when Mr. Moon?

(Deposition of S. G. Moon.)

A. June 28-04.

Q. And received in the usual course of business at or about that time? A. Yes.

Q. That is a complete list of the land including scrip, showing date, amount of scrip, whether it was in Mr. Moon's name or anybody else's. No. 334 offered in evidence and reads as follows:

Boise, Idaho, June 28, 1904.

S. G. Moon,

Sec. Barber Lumber Co.,

Eau Claire, Wis.

Dear Sir: Pursuant to your instructions of June 21st, relative to the list of lands upon which the Barber Lumber Company has title or initiated title, I submit the following:

Very truly,

FRANK STEUNENBERG.

LANDS UPON WHICH DEEDS HAVE BEEN
TAKEN AND RECORDED AND PATENT
ISSUED.

Homer G. Allen—E. $\frac{1}{2}$ NE. $\frac{1}{4}$ E. $\frac{1}{2}$ SE. $\frac{1}{4}$..	18-6-6
William Judge—NE. $\frac{1}{4}$	29 “
Louis M. Pritchard—NW. $\frac{1}{4}$	20 “
Charles Patterson and Mary Patterson—	
NW. $\frac{1}{4}$	33 “
Willis C. Lane—NW. $\frac{1}{4}$	28 “
Samuel Marcum—S. $\frac{1}{2}$ SE. $\frac{1}{4}$ Sec. 7 and S. $\frac{1}{2}$	
SW. $\frac{1}{4}$ Sec. 8.....	“
Smith Barker—SW. $\frac{1}{4}$	33 “
Sedgwick Hoover and Lena Hoover—SW. $\frac{1}{4}$.	28 “

George Ensworth and Eva Ensworth—E. $\frac{1}{2}$	
SE. $\frac{1}{4}$, S. $\frac{1}{2}$ NE. $\frac{1}{4}$	19 “
Frederick Thurman—NE. $\frac{1}{4}$	20 “
William F. Roberts—NW. $\frac{1}{4}$	25-7-5
Charles M. Wilmont and Florence Wilmont—	
NE. $\frac{1}{4}$	24 “
Lelia Lee—SE. $\frac{1}{4}$	1 “
Samuel Greig and Sarah Greig—Lot 4 in Sec.	
1, lots 1, 2 & 3 of Sec. 2 & S. $\frac{1}{2}$ NE. $\frac{1}{4}$	
& S. $\frac{1}{2}$ NW. $\frac{1}{4}$	2 “
William Pearson and Margaret Pearson—NE.	
$\frac{1}{4}$ Sec. 12, SE. $\frac{1}{4}$ of SW. $\frac{1}{4}$ Sec. 22, N $\frac{1}{2}$	
NW. $\frac{1}{4}$ and NW. $\frac{1}{4}$	27 “
Daniel P. Woodmore—SE. $\frac{1}{4}$	35 “
Charles Nelson—NE. $\frac{1}{4}$	23 “
John R. Gary & Edith Gary—SE. $\frac{1}{4}$	25-8-5
Frank Lane & Frankie Lane—E. $\frac{1}{2}$ NW. $\frac{1}{4}$	
E. $\frac{1}{2}$ SW. $\frac{1}{4}$	35 “
John U. Cassell—S. $\frac{1}{4}$	25 “
William W. Abrams & Aagot Abrams—Lots	
3 & 4 in Sec. 5 T. 7 N., R. 5 E. & S. $\frac{1}{2}$	
SW. $\frac{1}{4}$	32 “
Uriah Flint—NE. $\frac{1}{4}$	35 “
William Marcum—Lot 4 & SW. $\frac{1}{4}$ NW. $\frac{1}{4}$ Sec.	
4 T. 7 N., R. 5 E. & S. $\frac{1}{2}$ SW. $\frac{1}{4}$	33 “
Carl J. Peterson—S. $\frac{1}{2}$ NW. $\frac{1}{4}$, N. $\frac{1}{2}$ SW. $\frac{1}{4}$	33-8-5
John C. Monroe—NE. $\frac{1}{4}$	25-7-5
Mary A. Monroe—SE. $\frac{1}{4}$	24 “
Mack Gillum—NE. $\frac{1}{4}$	26-8-5
Altha Gillum—S. $\frac{1}{2}$ NW. $\frac{1}{4}$, S. $\frac{1}{2}$ NE. $\frac{1}{4}$	25 “
Lewis L. Folsom—NE. $\frac{1}{4}$ NW. $\frac{1}{4}$ Sec. 18 &	
SE. $\frac{1}{4}$ NW. $\frac{1}{4}$ & E. $\frac{1}{2}$ SW. $\frac{1}{4}$	7-7-5

Joseph French—SW. $\frac{1}{4}$	21-6-6
Joseph M. Hollister—SE. $\frac{1}{4}$	7-7-5
Lenora Hollister—N. $\frac{1}{2}$ NE. $\frac{1}{4}$ SW. $\frac{1}{4}$ NE. $\frac{1}{4}$ NW. $\frac{1}{4}$ SE. $\frac{1}{4}$	18-7-5
Albert B. Ewing—Lots 3 & 4 & E. $\frac{1}{2}$ SW. $\frac{1}{4}$	7-7-6
Clara B. Ewing—E. $\frac{1}{2}$ NW. $\frac{1}{4}$ W. $\frac{1}{2}$ NE. $\frac{1}{4}$	34-7-5
Edward Butler—SE. $\frac{1}{4}$	32-6-6
William H. Lewin—NE. $\frac{1}{4}$	32 “
Martin S. Stephenson—E. $\frac{1}{2}$ NE. $\frac{1}{4}$ Sec. 33 & W. $\frac{1}{2}$ NW. $\frac{1}{4}$	34-7-5
Lettie L. Stephenson—SE. $\frac{1}{4}$	34-7-5
James O. Baker—SE. $\frac{1}{4}$	25-7-5
Wilbert F. Wilmot—Lots 3, 4, 5, SE. $\frac{1}{4}$ NW. $\frac{1}{4}$	26-7-6
Ery A. Wilmot—NW. $\frac{1}{4}$	17-6-6
Arthur E. Brookhart—NW. $\frac{1}{4}$	35-7-5
Adella C. Brookhart—S. $\frac{1}{2}$ SW. $\frac{1}{4}$ S. $\frac{1}{2}$ SE. $\frac{1}{4}$	17-6-6
James H. Hamilton—E. $\frac{1}{2}$ NW. $\frac{1}{4}$ NE. $\frac{1}{4}$ SW. $\frac{1}{4}$ & NW. NE.....	22-7-5
Thaddeus M. Glass and Lula M. Glass—NE. $\frac{1}{4}$	13 “
Uriah F. McBriney and Eva McBriney—SE. $\frac{1}{4}$	11 “
Edward Brisbin—Lot 3 and SE. $\frac{1}{4}$ NW. $\frac{1}{4}$ and N. $\frac{1}{2}$ SW. $\frac{1}{4}$	1-7-5
William F. Snow—W. $\frac{1}{2}$ NW. $\frac{1}{4}$ W. $\frac{1}{2}$ SW. $\frac{1}{4}$	22 “
George M. Cutler—NW. $\frac{1}{4}$	13 “
Henry A. Snow and Minnie Snow—N. $\frac{1}{2}$ SW. $\frac{1}{4}$, S. $\frac{1}{2}$ NW. $\frac{1}{4}$ of Sec. 8 & S. $\frac{1}{2}$ SW. $\frac{1}{4}$ & S. $\frac{1}{2}$ SE. $\frac{1}{4}$	8 “

Samuel C. Bowen and Emma C. Bowen—SW.

$\frac{1}{4}$ 17 “

Walter L. Harrison and Alta—Lot 3 & NE. $\frac{1}{4}$

SW. $\frac{1}{4}$, NW. $\frac{1}{4}$ SE. $\frac{1}{4}$ SW. $\frac{1}{4}$ NE. $\frac{1}{4}$... 30-7-5

Lewis K. Burns and Dora Burns—NW. $\frac{1}{4}$... 24 “

Gustave H. Rothine—S $\frac{1}{2}$ SW. $\frac{1}{4}$, S. $\frac{1}{2}$ SE.

$\frac{1}{4}$ 5 “

Chas. A. Walker—N. $\frac{1}{2}$ NW. $\frac{1}{4}$, N. $\frac{1}{2}$ NE. $\frac{1}{4}$ 8 “

John H. Byro—SE. $\frac{1}{4}$ SW. $\frac{1}{4}$ Sec. 1 & E. $\frac{1}{2}$

NW. $\frac{1}{4}$, & SW. $\frac{1}{4}$ NW. $\frac{1}{4}$ 12 “

Henry F. Benedix—S. $\frac{1}{2}$ NW. $\frac{1}{4}$, N. $\frac{1}{2}$ SW.

$\frac{1}{4}$ 5 “

Dean West and Louisa West—S. $\frac{1}{2}$ SE. $\frac{1}{4}$;

Sec. 28, S. $\frac{1}{2}$ SW. $\frac{1}{4}$ Sec. 27 & NW. $\frac{1}{4}$... 23 “

Henry Ries—E. $\frac{1}{2}$ SW. $\frac{1}{4}$ & Lots 6, 7..... 6-7-6

Gustav A. Link—SW. $\frac{1}{4}$ 24-7-5

Mary Link—N. $\frac{1}{2}$ SE. $\frac{1}{4}$ Sec. 22 & N. $\frac{1}{2}$ SW.

$\frac{1}{4}$ 23 “

Louis Nibbler—SE. $\frac{1}{4}$ 23 “

Patrick H. Downs—N. $\frac{1}{2}$ NE. $\frac{1}{4}$, N. $\frac{1}{2}$ NW.

$\frac{1}{4}$ 17 “

Henry L. Clyne—SE. $\frac{1}{4}$ 6 “

Norman H. Young—S. $\frac{1}{2}$ NW. $\frac{1}{4}$ Sec. 17 &

SE. $\frac{1}{4}$ NE. $\frac{1}{4}$ NE. $\frac{1}{4}$ SE. $\frac{1}{4}$ 18 “

John D. French—SE. $\frac{1}{4}$ 20-6-6

Homer G. Granger—NE. $\frac{1}{4}$ 14-7-5

Walter S. Walker—SE. $\frac{1}{4}$ 31-6-6

Harry S. Worthman—W. $\frac{1}{2}$ SW. $\frac{1}{4}$ NE. $\frac{1}{4}$

SW. $\frac{1}{4}$ & NW. $\frac{1}{4}$ SE. $\frac{1}{4}$ 29 “

John Kinkaid—SE. $\frac{1}{4}$ 7-6-5

Frank B. Nickerson and wife—E. $\frac{1}{2}$ NW. $\frac{1}{4}$,

NW. $\frac{1}{4}$ NE. $\frac{1}{4}$ and lot 1..... 30-7-5

Oliver Johnson—SW. $\frac{1}{4}$	33-7-4
Aaron Ownbey—E. $\frac{1}{2}$ of SW. $\frac{1}{4}$, S. $\frac{1}{2}$ SE. $\frac{1}{4}$	9-7-8
Edward J. Dockey—E. $\frac{1}{2}$ SE. $\frac{1}{4}$, SW. $\frac{1}{4}$ SE. $\frac{1}{4}$ SE. $\frac{1}{4}$ SW. $\frac{1}{4}$	24-7-8
Eva Hunt Dockery—Lots 3, 4, S. $\frac{1}{2}$ NW. $\frac{1}{4}$..	4-7-8
Wm. E. Cavanaugh—N. $\frac{1}{2}$ NW. $\frac{1}{4}$, N. $\frac{1}{2}$ NE. $\frac{1}{4}$	15 “
Elof Anderson—SE. $\frac{1}{4}$..	12-7-7
Emma M. Anderson—Lots 1, 2, 3, and 4.....	1-7-7
John M. Neil—N. $\frac{1}{2}$ NE. $\frac{1}{4}$, N. $\frac{1}{2}$ NW. $\frac{1}{4}$	23-7-8
Maud Neil—Lots 1 & 2 & S. $\frac{1}{2}$ NE.	4-7-8
James Ownbey—NE. $\frac{1}{4}$	13-7-7
Jackson Ownbey—NW. $\frac{1}{4}$	13 “
Burt T. Parker—N. $\frac{1}{2}$ SE. $\frac{1}{4}$ & S. $\frac{1}{2}$ NE. $\frac{1}{4}$..	9-7-8
Thos. F. Kelley—SW. $\frac{1}{4}$	10 “
Mary E. Ownbey—Lot 2, SW. $\frac{1}{4}$ NE. $\frac{1}{4}$ W. $\frac{1}{2}$ SE. $\frac{1}{4}$	3-7-7
Edward E. Butler and Elvie Butler—Lot 4, SW. $\frac{1}{4}$ NW. $\frac{1}{4}$ & W. $\frac{1}{2}$ SW. $\frac{1}{4}$	2-7-8
George Bilderback and Emma Bilderback— N. $\frac{1}{2}$ SW. $\frac{1}{4}$ Sec. 27, N. $\frac{1}{2}$ SE. $\frac{1}{4}$	28 “
Merritt Twogood—NW. $\frac{1}{4}$	13 “
Alfred Bayhouse—SE. $\frac{1}{4}$	3 “
Henry Bayhouse—SW. $\frac{1}{4}$	3 “
John Youngkin and Susie Youngkin—NE. $\frac{1}{4}$	12-7-7
Wm. H. Gibberd and Addie Gibberd—E. $\frac{1}{2}$ NW. $\frac{1}{4}$, SW. $\frac{1}{4}$ NW. $\frac{1}{4}$ NE. $\frac{1}{4}$ SW. $\frac{1}{4}$..	12 “
Andrew Hanson—N. $\frac{1}{2}$ NE $\frac{1}{4}$ Sec. 22, S. $\frac{1}{2}$ SE. $\frac{1}{4}$	15-7-8
Addie Gibberd and Wm. H. Gibberd—Lots 3, 4, & S. $\frac{1}{2}$ NW. $\frac{1}{4}$	2-7-7
George Butler and Louisa Butler—N. $\frac{1}{2}$ SW.	

$\frac{1}{4}$ N. $\frac{1}{2}$ SE. $\frac{1}{4}$	4-7-8
Moses Kempner and Annie Kempner—W. $\frac{1}{2}$ NE. $\frac{1}{4}$, SE. $\frac{1}{4}$ NE. $\frac{1}{4}$ Sec. 19 SW. $\frac{1}{4}$ NW. $\frac{1}{4}$	20-7-8
Wm. F. Noble—NE. $\frac{1}{4}$	21-7-8
Harry Eagleson—S. $\frac{1}{2}$ NE. $\frac{1}{4}$ S. $\frac{1}{2}$ NW. $\frac{1}{4}$..	25-7-8
General Willhite—SW. $\frac{1}{4}$	32-7-8
Elizabeth Willhite—NE. $\frac{1}{4}$ Sec.....	31 “
Jacob Nusbaum—S. $\frac{1}{2}$ NE. $\frac{1}{4}$, NW. $\frac{1}{4}$ SE. $\frac{1}{4}$ NE. $\frac{1}{4}$ SW. $\frac{1}{4}$	24 “
Chas. Eagleson—S. $\frac{1}{2}$ SW. $\frac{1}{4}$, S. $\frac{1}{2}$ SE. $\frac{1}{4}$	25 “
Edward H. Starn—NW. $\frac{1}{4}$	10 “
Mary Starn—SE. $\frac{1}{4}$	10 “
Hugo Bayhouse and Delilah Bayhouse—NW. $\frac{1}{4}$	27-7-8
Harrison Ownbey and Margaret Ownbey—S. W. $\frac{1}{4}$	13-7-7
Chas. S. Kingsley—SW. $\frac{1}{4}$	14-7-8
C. F. B. Kingsley—NW. $\frac{1}{4}$	14 “
Fannie Hart—SW. $\frac{1}{4}$	11 “
Irving W. Hart—NW. $\frac{1}{4}$	11 “

Lands upon which deed has been taken, based upon receiver's receipt and patent not received: Number preceding name is number of Timber and Stone entry. “R” following name indicates that deed is of record.

500 George Warren and Harriet Warren	R. E. $\frac{1}{2}$ NW. $\frac{1}{4}$, E. $\frac{1}{2}$ SW. $\frac{1}{4}$	32-6-6
338 George Gibson	R. NW. $\frac{1}{4}$	21 “
503 Robert E. Heel.....	Lots 1, 2 and 3	31 “
343 Lola Thurman	R. SW. $\frac{1}{4}$...	20 “
507 Sherman Thompson and Jennie Thompson	R. SW. $\frac{1}{4}$ NE $\frac{1}{4}$, S. $\frac{1}{2}$ NW. $\frac{1}{4}$	34-7-4
457 Charles Pratt and		

Agusta Pratt .....RP.	S. $\frac{1}{2}$ NW. $\frac{1}{4}$, SW. $\frac{1}{4}$ NE. $\frac{1}{4}$ NW. $\frac{1}{4}$ SE. $\frac{1}{4}$ .....33 "
376 Charles Arbuckle .....R.	SW. $\frac{1}{4}$ NE. $\frac{1}{4}$, W. $\frac{1}{2}$ SE. $\frac{1}{4}$ S. 27, NW. $\frac{1}{4}$ NE. $\frac{1}{4}$ .....34-8-5
378 Susan Arbuckle .....R.	S. $\frac{1}{2}$ SE. $\frac{1}{4}$, NW. $\frac{1}{4}$ SE. $\frac{1}{4}$ SW. $\frac{1}{4}$ NE. $\frac{1}{4}$ .....19-7-5-
681 David G. Thompson ...R.	SE. $\frac{1}{4}$ .....26-8-5
371 Gertrude E. Lewin ....R.	NE. $\frac{1}{4}$ .....28-7-5
249 John Keane and Maggie Keane .....R.	W. $\frac{1}{2}$ NE. $\frac{1}{4}$, W. $\frac{1}{2}$ SE. $\frac{1}{4}$ ....21 "
383 Henry T. James .....R.	SE. $\frac{1}{4}$ .....13-7-5
368 John M. Williams .....R.	S. $\frac{1}{2}$ SW. $\frac{1}{4}$ S. 23 and S. $\frac{1}{2}$ SE. $\frac{1}{4}$ .....22-7-5
237 Kate Hunter .....R.	SW. $\frac{1}{4}$ .....15 "
370 Roy Dye .....R.	SE. $\frac{1}{4}$ .....15 "
499 William Humphrey ....R.	
498 Lydia Humphrey .....R.	E. $\frac{1}{2}$ NW. $\frac{1}{4}$, Lots 1, 2, of S. 18—7-6 and SE. $\frac{1}{4}$ S. ....33-7-5
369 Henry Humphrey .....R.	E. $\frac{1}{2}$ NW. $\frac{1}{4}$ S. 28, E. $\frac{1}{2}$ SW. $\frac{1}{4}$ 21-7-5
390 John G. McDonald .....R.	W. $\frac{1}{2}$ NE. $\frac{1}{4}$, SE. $\frac{1}{2}$ NW. $\frac{1}{4}$ NE. $\frac{1}{4}$ SW. $\frac{1}{4}$ .....31 "
240 Nellie J. Thompson ....R.	SE. $\frac{1}{4}$ SW. $\frac{1}{4}$ Lot 4, S. 30, NE. $\frac{1}{4}$ NW. $\frac{1}{4}$, Lot 1, S. ....31 "
256 Chas. W. Ballentine ....P.	NE. $\frac{1}{4}$... 7 "
592 John W. Rose .....RP.	Lots 1, 2, and S. $\frac{1}{2}$ NE. $\frac{1}{4}$ ....1-6-7
521 Jens Olsen .....R.	SE. $\frac{1}{4}$ .....25-7-7
522 John Chirstenson .....R.	NE. $\frac{1}{4}$ .....25 "
589 Mary Thompson.....RP.	E. $\frac{1}{2}$ NW. $\frac{1}{4}$ and Lots 1, 2,...19-7-8
579 Alice Fordney .....RPX.	Lots 1, 2, S. $\frac{1}{2}$ NE. $\frac{1}{4}$ 3-7-8
648 Emma Blandford ....RP.	S. $\frac{1}{2}$ SE. $\frac{1}{4}$ S. 11, E. $\frac{1}{2}$ NE. $\frac{1}{4}$ NE. $\frac{1}{4}$ SE. $\frac{1}{4}$... 14-7-7
580 Ida Twegood .....R.	SW. $\frac{1}{4}$ SE. $\frac{1}{4}$, S. $\frac{1}{2}$ SW. $\frac{1}{4}$, S. 4, NW. $\frac{1}{4}$ NW. $\frac{1}{4}$ 9-7-8
668 Annie Kempner .....RP.	NE. $\frac{1}{4}$ .....32-7-8
611 Geo. T. Ellis and Jennie Ellis .....R.	SE. $\frac{1}{4}$ .....12-7-8
654 Helen Eagleson .....RP.	S. $\frac{1}{2}$ NW. $\frac{1}{4}$ S. 23, S. $\frac{1}{2}$ NE. $\frac{1}{4}$ 22-7-8
652 Chas. R. Beckley ....RP.	N. $\frac{1}{2}$ NW. $\frac{1}{4}$ SW. $\frac{1}{4}$ NW. $\frac{1}{4}$ NW. $\frac{1}{4}$ SW. $\frac{1}{4}$ .....26 "
650 Mantie Beckley .....RP.	SW. $\frac{1}{4}$ .....22-7-8
657 Caroline Alexander ...RP.	E. $\frac{1}{2}$ NE. $\frac{1}{4}$ N. $\frac{1}{2}$ SE. $\frac{1}{4}$ .....34 "
610 Benj. Eagleson and M. L. Eagleson .....RP.	N. $\frac{1}{2}$ SW. $\frac{1}{4}$ N. $\frac{1}{2}$ SE. $\frac{1}{4}$ .....25 "

655	Pearl Nusbaum.....RP.	SE.¼	22 "
608	Emerson Sensenig ....RP.	S.½ SE.¼ NE.¼ SE.¼ SE.¼ NE.¼	26 "
656	Lucretia Sensenig ....RP.	SW.¼	23 "
621	Frank Bayhouse ....RP.	N.½ SE.¼, N.½ SW.¼	19-7-8
667	Jeanette Cooper .....RP.	SE.¼ SW.¼ S.½ SE.¼, Sec. 30, SW.¼ SW.¼	29 "
651	Henry Schmelzel and E. Schmelzel .....RP.	SE.¼	27 "
647	Walter L. Wilson ....RP.	Lots 1, 2, E.½ NW.¼	31 "
646	Lena D. Wilson.....RP.	SE.¼	32 "
646	Sonora A. Joplin ....RP.	SW.¼	33 "
644	Andrew F. Joplin ....RP.	Lots 1, 2, 3, 4	5-6-8
622	George Bayhouse ....RP.	NE.¼	28-7-8
637	Wm. H. Martin .....RP.	SE.¼	7 "
636	Henrietta Martin ....RP.	E.½ NW.¼, Lots 1, 2,	7 "
627	James F. Belk and Angie Belk .....RP.	SW.¼	12 "
624	Benj. E. Stahl .....RP.	SW.¼	8 "
635	Arietta H. Stahl ....RP.	E.½ SW.¼, Lots 3, 4,	7 "
640	Elma E. Gardner.....RP.	S.½ SW.¼ NW.¼ SW.¼, Sec. 12, NE.¼ SE.¼	11-7-7
564	John A. Youngkin and Susie Youngkin .....RP.	Lots 1, 2, S.½ NE.¼	2-7-7
594	Clifton C. Bliven and Lottie M. Bliven ....RP.	E.½ NE.¼ N.½ SE.¼	24 "
593	Frank R. McDonald Ellen E. McDonald ...RP.	Lots 2, 3, SW.¼ NE.¼, SE.¼ NW.¼	6-6-8
616	Edgar E. Bush .....RP.	S.½ NW.¼, NE.¼ NW.¼, NW.¼ SW.¼	21-7-8
613	Walter Joplin .....RP.	W.¼ NE.¼ SE.¼ NE.¼ NE.¼ SE.¼	20-7-8
746	Helen Sullivan .....RP.	NW.¼	22 "
745	Joseph Sullivan .....RP.	NE.¼	27 "
614	Geo. W. Butler and Louisa Butler .....RP.	E.½ SE.¼ SW.¼ SE.¼ SE.¼ NE.¼	17 "
804	Frank P. Weasel Nora Weasel .....RP.	SE.¼	31 "
805	George M. York .....RP.	Lots 1, 2, 3, 4,	30 "

860	Lee J. Roberts	RP.	NE. $\frac{1}{4}$	10	"
861	Adah Roberts	RP.	Lot 3, SE. $\frac{1}{4}$ NW. $\frac{1}{4}$ E. $\frac{1}{2}$ SW. $\frac{1}{4}$	3-7-7	
858	Rollin Lothrop	RP.	NE. $\frac{1}{4}$	35-7-8	
857	Earl Harrington..	RP.	NE. $\frac{1}{4}$ NW. $\frac{1}{4}$ N. $\frac{1}{2}$ NE. $\frac{1}{4}$, Sec. 23, NW. $\frac{1}{4}$ NW. $\frac{1}{4}$	24	"
862	Elmer G. Dodds	RP.	NW. $\frac{1}{4}$...	32	"
863	Hannah Dodds	R.	Lot 4, SE. $\frac{1}{4}$ SW. $\frac{1}{4}$ S. $\frac{1}{2}$ SE. $\frac{1}{4}$	18	"
943	Ada V. Austin	RP.	N. $\frac{1}{2}$ SW. $\frac{1}{4}$ N. $\frac{1}{2}$ SE. $\frac{1}{4}$	15-7-7	
944	Willard C. Austin...	RP.	N. $\frac{1}{2}$ SW. $\frac{1}{4}$ SW. $\frac{1}{4}$ SW. $\frac{1}{4}$ Sec. 22	22-7-7	
			NE. $\frac{1}{4}$ SE. $\frac{1}{4}$	21	"
971	Burt Resser and Edith Resser	RP.	S. $\frac{1}{2}$ NW. $\frac{1}{4}$, Lots 3 and 4.....	1-6-7	
978	Edward Lockhart and Nellie Lockhart	RP.	N. $\frac{1}{2}$ SE. $\frac{1}{4}$ SE. $\frac{1}{4}$ SE. $\frac{1}{4}$ Sec. 1, NE. $\frac{1}{4}$ NE. $\frac{1}{4}$	12-6-7	
994	John J. Pawley	RP.	E. $\frac{1}{2}$ SE. $\frac{1}{4}$, Sec. 32, W. $\frac{1}{2}$ SW. $\frac{1}{4}$	33-6-8	
991	Hiram Maynard	RP.	E. $\frac{1}{2}$ NE. $\frac{1}{4}$, Sec. 31, W. $\frac{1}{2}$ NW. $\frac{1}{4}$..	32-6-8	
990	Benj. R. Allen	RP.	NE. $\frac{1}{4}$	30-6-8	
992	Samuel E. Vance	RP.	NW. $\frac{1}{4}$	29	"
993	John E. Hobbs.....	RP.	SW. $\frac{1}{4}$	29	"
963	O. R. Jaycox	RP.	W. $\frac{1}{2}$ NE. $\frac{1}{4}$ E. $\frac{1}{2}$ NW. $\frac{1}{4}$	17	"
962	Luella Jaycox	RP.	Lots 4, 5, 6 and 7	6	"
	S. S. Horner S. D. Horner and	RP.	W. $\frac{1}{2}$ SW. $\frac{1}{4}$ SW. $\frac{1}{4}$ NW. $\frac{1}{4}$, Sec. 26, NE. $\frac{1}{4}$, SE. $\frac{1}{4}$, Sec. 27, W. $\frac{1}{2}$ NE. $\frac{1}{4}$ E. $\frac{1}{2}$ NW. $\frac{1}{4}$	22-7-7	
	Roy Savage	R.	E. $\frac{1}{2}$ NW. $\frac{1}{4}$ SW. $\frac{1}{4}$ NW. $\frac{1}{4}$ and NW. SW.	24-7-8	
1036	George G. Eagleson	R.	E. $\frac{1}{2}$ NE. $\frac{1}{4}$, E. $\frac{1}{2}$ SE. $\frac{1}{4}$	27-6-4	
1037	Mary J. Eagleson	R.	Lot 2, SW. $\frac{1}{4}$ NE. $\frac{1}{4}$, W. $\frac{1}{2}$ SE. $\frac{1}{4}$	1	"
1065	John K. Woodburn.....	R.	SW. $\frac{1}{4}$	15	"
1050	Frank R. Martin	R.	NE. $\frac{1}{4}$	21	"
1048	A. T. Ellis	R.	N. $\frac{1}{2}$ NW. $\frac{1}{4}$, W. $\frac{1}{2}$ NE. $\frac{1}{4}$	22	"
1049	Charles W. Clawson ...	R.	SW. $\frac{1}{4}$	29	"
1052	Geo. R. Avery	R.	SE. $\frac{1}{4}$...	29	"
1051	Joseph Erhmantraut ...	R.	NW. $\frac{1}{4}$...	15	"
1057	Margaret Erhmantraut..	R.	SE. $\frac{1}{4}$	15	"

1055	Willis A. Ross	R.	SE. $\frac{1}{4}$	20	"
1056	Josie M. Ross	R.	SW. $\frac{1}{4}$	20	"
1053	Andrew Campbell	R.	NW. $\frac{1}{4}$	21	"
1060	William R. Coleman ...	R.	W. $\frac{1}{2}$ NE. $\frac{1}{4}$ W. $\frac{1}{2}$ SE. $\frac{1}{4}$	28-6-4	
1039	Thos. L. Martin	R.	SW. $\frac{1}{4}$	23	"
1066	W. B. Davidson	R.	NE. $\frac{1}{4}$	20	"
1063	Rice J. Harbaugh	R.	S. $\frac{1}{2}$ SW. $\frac{1}{4}$ NW. $\frac{1}{4}$ SW. $\frac{1}{4}$ SW. $\frac{1}{4}$ NW. $\frac{1}{4}$	22	"
1059	Clara M. Snow	R.	NE. $\frac{1}{4}$	15	"
	Henry F. Cassidy	R.	NE. $\frac{1}{4}$ SE. $\frac{1}{4}$, S. $\frac{1}{2}$ SE. $\frac{1}{4}$ SE. $\frac{1}{4}$ SW. $\frac{1}{4}$	17	"
1035	Margaret Scully	R.	NW. $\frac{1}{4}$	20	"
1058	Harry B. Noble	R.	SW. $\frac{1}{4}$	28-6-4	
1061	Chas. B. Faraday	R.	NW. $\frac{1}{4}$	28	"
1155	John O. Lytle		NW. $\frac{1}{4}$ NE. $\frac{1}{4}$, Sec. 9, W. $\frac{1}{2}$ SE. $\frac{1}{4}$ NE. $\frac{1}{4}$ SW. $\frac{1}{4}$	4-5-4	
1160	James R. Venable	R.	Lots 5, 6, 7, SE. $\frac{1}{4}$ NW. $\frac{1}{4}$	4	"
1054	Riley Reeves	R.	NW. $\frac{1}{4}$	29-6-4	
1046	Loren T. Kinert	R.	SW. $\frac{1}{4}$..	21	"
1038	Wheeler H. Martin		SE. $\frac{1}{4}$...	21	"
	Joseph Penrod	R.	NE. $\frac{1}{4}$	29	"
1040	Anna Fisher	R.	E. $\frac{1}{2}$ SE. $\frac{1}{4}$, NW. $\frac{1}{4}$ SE. $\frac{1}{4}$ SW. $\frac{1}{4}$ NE. $\frac{1}{4}$	12	"

The following lands are under mortgage to L. M. Pritchard for the sum of \$1393.50:

Samuel Swan—SE. $\frac{1}{4}$35-8-5

Emma Swan—SW. $\frac{1}{4}$25-7-5

Under date of February 1, 1904, the following lands were applied for and list approved by the local land office at Boise, Idaho.

Lot 1 and SW. $\frac{1}{4}$ of the N-E. $\frac{1}{4}$ of Sec. 6, N. $\frac{1}{2}$ of NW. $\frac{1}{4}$ of Sec. 9, SW. $\frac{1}{4}$ of NE. $\frac{1}{4}$ and NW. $\frac{1}{4}$ of SE. $\frac{1}{4}$ of Sec. 17, Lot 1 and NE. $\frac{1}{4}$ of NW. $\frac{1}{4}$ of Sec. 19, SE. $\frac{1}{4}$ of NW. $\frac{1}{4}$ and SW. $\frac{1}{4}$ of NE. $\frac{1}{4}$ of Sec. 20 NW. $\frac{1}{4}$ of SW. $\frac{1}{4}$ of

N. P. Sur-
veyed Scrip
assigned to
S. G. Moon
and laid by
Frank
Steunen-
berg, his
attorney, in
fact.

Boise L. O. Sec. 27 NW. $\frac{1}{4}$ of SE. $\frac{1}{4}$ and
 #148, GLO. N. $\frac{1}{2}$ of SW. $\frac{1}{4}$ of Sec. 28
 #10,612. Lot 2 in Sec. 30 Lot 2 in Sec.
 31 SE. $\frac{1}{4}$ of SE. $\frac{1}{4}$ of Sec. 32,
 S. $\frac{1}{2}$ of SW. $\frac{1}{4}$ of Sec. 33 SE.
 $\frac{1}{4}$ of NE. $\frac{1}{4}$ of Sec. 35, all in
 Township 7 N. R. 5 all East of
 Boise Principal Meridian,
 Idaho. Also Lots 3, 4 and 5
 of Sec. 6, SE. $\frac{1}{4}$ of NW. $\frac{1}{4}$
 and N. $\frac{1}{2}$ of NE. $\frac{1}{4}$ of Sec. 8
 NW. $\frac{1}{4}$ of SE. $\frac{1}{4}$ of Sec. 17 N.
 $\frac{1}{2}$ of SE. $\frac{1}{4}$ and NE. $\frac{1}{4}$ of
 SW. $\frac{1}{4}$ of Sec. 30, all in T. 7
 N., R. 8, all East of Boise
 Principal Meridian, Idaho.
 Also the SW. $\frac{1}{4}$ of the NW.
 $\frac{1}{4}$ and SE. $\frac{1}{4}$ of SW. $\frac{1}{4}$ of
 Sec. 10, NE. $\frac{1}{4}$ of NE. $\frac{1}{4}$
 of Sec. 13, SW. $\frac{1}{4}$ of NE.
 $\frac{1}{4}$ of Sec. 19, SE. $\frac{1}{4}$ of NW.
 $\frac{1}{4}$ of Sec. 22, SE. $\frac{1}{4}$ of NW.
 $\frac{1}{4}$ of Sec. 23, E. $\frac{1}{2}$ of NE. $\frac{1}{4}$
 of Sec. 25, NE. $\frac{1}{4}$ of NE. $\frac{1}{4}$ of
 Sec. 28, NE. $\frac{1}{4}$ of SW. $\frac{1}{4}$ of
 Sec. 32 and N. $\frac{1}{2}$ of NW. $\frac{1}{4}$
 of Sec. 23, all in T. 6 N., R. 4
 all East of Boise Principal
 Meridian, Idaho, containing
 1662.95 acres.

Title No. 202.

Under date of April 14, 1904, the following lands
 were applied for and list approved by the local land

office at Boise, Idaho.

The NE. $\frac{1}{4}$ of the SW. $\frac{1}{4}$ of Sec. 3, the SW. $\frac{1}{4}$ of the SE. $\frac{1}{4}$ of Sec. 5, the NW. $\frac{1}{4}$ of the NE. $\frac{1}{4}$ of Sec. 8, the NW. $\frac{1}{4}$ of the NW. $\frac{1}{4}$ of Sec. 9, the SE. $\frac{1}{4}$ of the SW. $\frac{1}{4}$ of Sec. 9 the NW. $\frac{1}{4}$ of the NW. $\frac{1}{4}$ of Sec. 10, the NE. $\frac{1}{4}$ of the NE. $\frac{1}{4}$ of Sec. 10, the NE. $\frac{1}{4}$ of the NE. $\frac{1}{4}$ and NW. $\frac{1}{4}$ of the NE. $\frac{1}{4}$ and SW. $\frac{1}{4}$ of SW. $\frac{1}{4}$ of Sec. 13, the SE. $\frac{1}{4}$ of the SE. $\frac{1}{4}$ of Sec. 14, the SW. $\frac{1}{4}$ of the NW. $\frac{1}{4}$ of Sec. 15, Lots 1 and 2, and the SW. $\frac{1}{4}$ of the SE. $\frac{1}{4}$ of Sec. 22, the NE. $\frac{1}{4}$ of the NE. $\frac{1}{4}$, and the SE. $\frac{1}{4}$ of the NE. $\frac{1}{4}$ of Sec. 23, the NE. $\frac{1}{4}$ of the NE. $\frac{1}{4}$ the NW. $\frac{1}{4}$ of the NE. $\frac{1}{4}$ the SW. $\frac{1}{4}$ of the NE. $\frac{1}{4}$, the SW. $\frac{1}{4}$ of the NW. $\frac{1}{4}$ and the SE. $\frac{1}{4}$ of the SW. $\frac{1}{4}$ of Sec. 26, the NE. $\frac{1}{4}$ of the NE. $\frac{1}{4}$ the NW. $\frac{1}{4}$ of the NE. $\frac{1}{4}$, the SE. $\frac{1}{4}$ of the NE. $\frac{1}{4}$ and lot 7, Sec. 27, the NE. $\frac{1}{4}$ of the SW. $\frac{1}{4}$, of Sec. 28, the SE. $\frac{1}{4}$ of NW. $\frac{1}{4}$ and the NE. $\frac{1}{4}$ of SW. $\frac{1}{4}$ of Sec. 32, all in Twp. 5 N., R. 4 all E. of the Boise Principal Meridian, also the SW. $\frac{1}{4}$ of the SW. $\frac{1}{4}$ of Sec. 4 the SE. $\frac{1}{4}$ of SW. $\frac{1}{4}$ of Sec. 5, the NW. $\frac{1}{4}$ of the SW. $\frac{1}{4}$, the SW. $\frac{1}{4}$ of the SE. $\frac{1}{4}$ and the NE. $\frac{1}{4}$ of the SE. $\frac{1}{4}$ of Sec. 13, the NE. $\frac{1}{4}$ of the SE. $\frac{1}{4}$ of Sec. 14, and SW. of SE. $\frac{1}{4}$ of Sec. 18, all in T. 4 N., R. 4, all E. of the Boise Principal Meridian, all in Boise County,

N. P. R. R.
Surveyed
Scrip assigned to
S. G. Moon
and laid by
Frank
Steunen-
berg his
attorney in
fact.

Idaho; also the NE. $\frac{1}{4}$ of the SW. $\frac{1}{4}$ and the SE. $\frac{1}{4}$ of the NW. $\frac{1}{4}$ of Sec. 18 in T. 7 N., R. 5 E. of the Boise principal meridian; also the NE. $\frac{1}{4}$ of the NE. $\frac{1}{4}$ of Sec. 24, the NE. $\frac{1}{4}$ of the SW. $\frac{1}{4}$, the NW. $\frac{1}{4}$ of the SW. $\frac{1}{4}$, the NE. $\frac{1}{4}$ of the SE. $\frac{1}{4}$ and the NW. $\frac{1}{4}$ of the SE. $\frac{1}{4}$ of Sec. 28, all in T. 7 N., R. 4 E. of the Boise principal meridian; also the NE. $\frac{1}{4}$ of the NE. $\frac{1}{4}$ of Sec. 9 the SW. $\frac{1}{4}$ of the SE. $\frac{1}{4}$ of Sec. 10, the SW. $\frac{1}{4}$ of the SE. $\frac{1}{4}$ of Sec. 12, the SE. $\frac{1}{4}$ of Sec. 25, the NW. $\frac{1}{4}$ of the SE. $\frac{1}{4}$ of Sec. 27, the SE. $\frac{1}{4}$ of the SE. $\frac{1}{4}$ of Sec. 30, the E. $\frac{1}{2}$ of the SW. $\frac{1}{4}$ and the W. $\frac{1}{2}$ of the SE. $\frac{1}{4}$ of Sec. 34, all in T. 6 N., R. 4 all east of the Boise principal meridian; also the N. $\frac{1}{2}$ of the SE. $\frac{1}{4}$ of Sec. 6 the NE. $\frac{1}{4}$ of the NW. $\frac{1}{4}$ of Sec. 8 the SE. $\frac{1}{4}$ of the SE. $\frac{1}{4}$ of Sec. 19, the W. $\frac{1}{2}$ of the SW. $\frac{1}{4}$ and the NE. $\frac{1}{4}$ of the SW. $\frac{1}{4}$ of Sec. 20, all in T. 7 N., R. 8 all east of the Boise principal meridian, all in Boise County, Idaho, containing 2,479.35 acres.

Title No. 203.

Land Office L. O. #11,649.

Approved by Com. G. L. O.

See letter Aug. 3rd, 1905.

E. E. GARRETT,
Recorder.

Under date of November 12, 1903, the following list of lands was filed in the local land office at Boise, Idaho, and duly approved.

N. P. Land Deal #1.	<p>The unsurveyed S. $\frac{1}{2}$ SW. $\frac{1}{4}$, Sec. 23, NE. $\frac{1}{4}$ SW. $\frac{1}{4}$, NW. $\frac{1}{4}$ SE. $\frac{1}{4}$, S. $\frac{1}{2}$ SW. $\frac{1}{4}$, S. $\frac{1}{2}$ SE. $\frac{1}{4}$, Sec. 25, NE. $\frac{1}{4}$ E. $\frac{1}{2}$ SE. $\frac{1}{4}$ Sec. 35, T. 8 N., R. 7 E., E. $\frac{1}{2}$ NW. $\frac{1}{4}$, Sec. 31, S. $\frac{1}{2}$ SW. $\frac{1}{4}$, SW. $\frac{1}{4}$ SE. $\frac{1}{2}$, Sec. 33, T. 8 N., R. 8 E., NW. $\frac{1}{4}$ W. $\frac{1}{2}$ SE. $\frac{1}{4}$, SW. $\frac{1}{4}$ Sec. 19, SW. $\frac{1}{4}$ SW. $\frac{1}{4}$, Sec. 21, W. $\frac{1}{2}$ NW. $\frac{1}{4}$, NW. $\frac{1}{4}$ SW. $\frac{1}{4}$, Sec. 29, S. $\frac{1}{2}$ NW. $\frac{1}{4}$, E. $\frac{1}{2}$ SW. $\frac{1}{4}$, SW. $\frac{1}{4}$ SW. $\frac{1}{4}$, W. $\frac{1}{2}$ SE. $\frac{1}{4}$, Sec. 33, T. 7 N., R. 9 E., SW. $\frac{1}{4}$ SE. $\frac{1}{4}$, Sec. 35, T. 8 N., R. 7 E., B. M., containing 1640 acres, in State of Idaho.</p>	Unsur- veyed N. P. R. R. Scrip.
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Title No. 206.	<p>The unsurveyed NW. $\frac{1}{4}$ NE. $\frac{1}{4}$, S. $\frac{1}{2}$ NE. $\frac{1}{4}$, N. $\frac{1}{2}$ NW. $\frac{1}{4}$, NE. $\frac{1}{4}$ SE. $\frac{1}{4}$, S. $\frac{1}{2}$ SE. $\frac{1}{4}$, Sec. 26, T. 8 N., R. 7 E., NW. $\frac{1}{4}$, E. $\frac{1}{2}$ SW. $\frac{1}{4}$, SW. $\frac{1}{4}$ SE. $\frac{1}{4}$, Sec. 30, SE. $\frac{1}{4}$ SE. $\frac{1}{4}$, Sec. 32, T. 8 N., R. 8 E., NW. $\frac{1}{4}$ NE. $\frac{1}{4}$, N. $\frac{1}{2}$ NW. $\frac{1}{4}$, Sec. 4, T. 6 N., R. 9 E., SW. $\frac{1}{4}$ SW. $\frac{1}{4}$, Sec. 18, SW. $\frac{1}{4}$ NW. $\frac{1}{4}$, Sec. 28, N. $\frac{1}{2}$ NW. $\frac{1}{4}$, SW. $\frac{1}{4}$ NW. $\frac{1}{4}$, Sec. 30, and NE. $\frac{1}{4}$ SE. $\frac{1}{4}$, Sec. 32, T. 7 N., R. 9 E., B. M., containing 100 acres, in State of Idaho.</p>	Unsur- veyed N. P. R. R. Scrip.
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Lot	2,	16.44
	7,	7.43
	8,	38.72
	9,	39.92
	10,	13.83
SE NE.		40.00

156.34 A

Sec. 25 — 5 N— 4 E.

Taken with scrip brought from M. G. Cage —
1/28/05.

Title No. 200.

NOTICE.

Notice is hereby given that the undersigned, by his attorney in fact, whose postoffice address is Caldwell, Idaho, did on the 1st day of October, 1904, make application to select, under Act of June 4th, 1897 (30 Stat., 36), the following described tracts of land, to-wit:

Lot 1, Sec. 26, T. 7 N. R. 4 E.; lot 3, Sec. 5, lots 3, 4, 7 and 8, Sec. 7, all in T. 6 N, R. 5 E.; lot 2, Sec. 12, lots 5 and 9, Sec. 13, Lots 4, 5, 8, 10, 11, Sec. 24, lots 1, 3, 4, 5, 6, 7, Sec. 25, lots 1, 2, 3, 4, Sec. 26, all in T. 6 N, R 4 E.; lots 2, 3, 7, 9, 10, 11, 15, 16, Sec. 3, lot 1, Sec. 25, all in T 5 N., R. 4 E., containing 954.10 acres, all in Boise County, Idaho.

Protests or contests against said selection on the ground that said land or any portion thereof is more valuable for mineral than for agricultural or any other purpose, or for any other cause, will be received by the Register and Receiver of the United States Land Office at Boise, Idaho, at any time prior

to the expiration of the thirty days required for publication of this notice.

This notice will be posted upon the land by W. R. Lake, the duly authorized agent of said Sumner G. Moon, and his attorney in fact, Frank Steunenberg.

Dated at Boise, Idaho, this 6th day of October, 1904.

SUMNER G. MOON.

By FRANK STEUNENBERG,
Attorney in fact.

Title No. 204.

NOTICE.

Notice is hereby given that the undersigned, by his attorney in fact, whose postoffice address is Caldwell, Idaho, did, on the 1st day of October, 1904, make application to select, under Act of June 4th, 1897 (30 Stat., 36) the following described tracts of land, to wit:

NW. $\frac{1}{4}$ SE. $\frac{1}{4}$, Sec. 5, SW. $\frac{1}{4}$ NE. $\frac{1}{4}$, Sec. 9, Relinquished Sec. 9, SE. $\frac{1}{4}$ NE. $\frac{1}{4}$, Sec. 20, NE. $\frac{1}{4}$, SW. $\frac{1}{4}$, Sec. 33, all in T. 7 N., R. 5 E., SW. $\frac{1}{4}$ SE. $\frac{1}{4}$, SE. $\frac{1}{4}$, SE. $\frac{1}{4}$ NE. $\frac{1}{4}$ SE. $\frac{1}{4}$, Sec. 26, SW. $\frac{1}{4}$, NE. $\frac{1}{4}$, SE. $\frac{1}{4}$ NW. $\frac{1}{4}$, Sec. 28, SE. $\frac{1}{4}$ NE. $\frac{1}{4}$, Sec., 33, all in T. 7 N., R. 4 E.; SE. $\frac{1}{4}$ NW. $\frac{1}{4}$, Sec. 5, SE. $\frac{1}{4}$ NE. $\frac{1}{4}$, Sec 7, T. 6 N., R. 5 E.; NW. $\frac{1}{4}$ NE. $\frac{1}{4}$, Sec. 12, NW. $\frac{1}{4}$ NE. $\frac{1}{4}$, SE. $\frac{1}{4}$ of NE. $\frac{1}{4}$, Sec. 13, NW $\frac{1}{4}$ NE $\frac{1}{4}$, Sec. 25, SW. $\frac{1}{4}$ NE. $\frac{1}{4}$, Sec. 25; SE. $\frac{1}{4}$ SE. $\frac{1}{4}$, Sec. 26, NE. $\frac{1}{4}$ NE. $\frac{1}{4}$, Sec. 30, SW. $\frac{1}{4}$ SW. $\frac{1}{4}$, Sec. 34, all in T. 6 N., R. 4 E.; the SW. $\frac{1}{4}$ SW. $\frac{1}{4}$, Sec. 20, T. 5 N., R. 4 E., containing 879.98 acres, all in Boise County, Idaho.

Protests or contests against said selection on the

ground that said land or any portion thereof is more valuable for mineral than for agricultural or any other purpose, or for any other cause, will be received by the Register and Receiver of the United States Land Office at Boise, Idaho, at any time prior to the expiration of the thirty days required for publication of this notice.

This notice will be posted upon the land by W. R. Lake, the duly authorized agent of said Sumner G. Moon and his attorney in fact, Frank Steunenbergh.

Dated at Boise, Idaho, this 6th day of October, 1904.

SUMNER G. MOON.

By FRANK STEUNENBERGH,

Attorney in fact.

Title No. 205.

TITLE NO. 222.

Notice is hereby given, that the Northern Pacific Railway Company, by Thomas Cooper, its Land Commissioner, whose postoffice address is St. Paul, Minn., did, on the 26th day of April, 1905, make application to select under the Act of March 2, 1899 (30 Stat. 993), the following tracts of unsurveyed lands, to wit: The NW. $\frac{1}{4}$ of the NE. $\frac{1}{4}$, the NE. $\frac{1}{4}$ of the NW. $\frac{1}{4}$, the NW. $\frac{1}{4}$ of the NW. $\frac{1}{4}$, the SW. $\frac{1}{4}$ of the NW. $\frac{1}{4}$ of Sec. 20. The NE. $\frac{1}{4}$ of the NE. $\frac{1}{4}$, the NW. $\frac{1}{4}$ of the NE. $\frac{1}{4}$, the SW. $\frac{1}{4}$ of the NE. $\frac{1}{4}$, the SE. $\frac{1}{4}$ of the NE. $\frac{1}{4}$, the SE. $\frac{1}{4}$ of the NW. $\frac{1}{4}$, the SW. $\frac{1}{4}$ of the NW. $\frac{1}{4}$, the NE. $\frac{1}{4}$ of the SW. $\frac{1}{4}$, the NW. $\frac{1}{4}$ of the SW. $\frac{1}{4}$, Sec. 30, all in T. 6 N., R. 5 E., B. M., Idaho.

Protests or contests against said selection on the

ground that said land or any portion thereof is more valuable for mineral than for agricultural or other purposes or for any other cause will be received by the Register and Receiver of the United States Land Office at Boise, Idaho, at any time prior to the expiration of the 30 days required for the publication of this notice.

This notice will be posted on the land by W. R. Lake, the duly authorized agent of said Northern Pacific Railway Company, and its Land Commissioner, Thomas Cooper.

Dated at Boise, Idaho, this 8th day of July, 1905.

THE NORTHERN PACIFIC RAILWAY
COMPANY,

By THOMAS COOPER,
Land Commissioner.

Scrip filed April 26/1905.

N. P. Land Deal #2.

(Unsurveyed.)

TITLE NO. 222.

Notice is hereby, that the Northern Pacific Railway Company by Thomas Cooper, its Land Commissioner, whose postoffice address is St. Paul, Minn., did on the 26th day of April, 1905, make application to select under the Act of July 1, 1898 (30 Stat. 597-620), the following described tracts of unsurveyed lands, to-wit: The NE. $\frac{1}{4}$ of the NE. $\frac{1}{4}$, the NW. $\frac{1}{4}$ of the NE. $\frac{1}{4}$, the SW. $\frac{1}{4}$ of the NE. $\frac{1}{4}$, the NE. $\frac{1}{4}$ of the NW. $\frac{1}{4}$, the SE. $\frac{1}{4}$ of the NE. $\frac{1}{4}$, the NE. $\frac{1}{4}$ of the SE. $\frac{1}{4}$, the SE. $\frac{1}{4}$ of the NW. $\frac{1}{4}$, the NE. $\frac{1}{4}$ of the SW. $\frac{1}{4}$, the SE. $\frac{1}{4}$ of the SE. $\frac{1}{4}$, the SW. $\frac{1}{4}$ of the SW. $\frac{1}{4}$, the SE. $\frac{1}{4}$ of the SW. $\frac{1}{4}$, the NW. $\frac{1}{4}$

of the SE. $\frac{1}{4}$ and the SW. $\frac{1}{4}$ of the SE. $\frac{1}{4}$, all in S. 19, T. 6 N., R. 5 E., B. M., Idaho, containing 520 acres.

Protests or contests against said selection on the ground that said land or any portion thereof is more valuable for mineral lands than for agricultural or any other purpose or for any other cause will be received by the Register and Receiver of the United States Land Office at Boise, Idaho, at any time prior to the expiration of the 30 days required for publication of this notice.

This notice will be posted on the land by W. R. Lake, the duly authorized agent of said Northern Pacific Railway Company, and its Land Commissioner, Thomas Cooper.

Dated Boise, this 8th day of July, 1905.

THE NORTHERN PACIFIC RAILWAY
COMPANY,

By THOMAS COOPER,

Land Commissioner.

Scrip filed April 26/05.

N. P. Land Deal #2.

(Unsurveyed)

Q. Mr. Moon, did you authorize Mr. Chapman or Mr. Steunenberg or anyone else to pay Frank Martin money for legal services for your company?

A. No, sir.

Q. Did you know of any such having been paid to him?

A. No, sir.

Q. Did Governor Steunenberg at the time make any charge against you for any money paid to Frank Martin in any way?

A. No, sir.

(Deposition of S. G. Moon.)

Q. Did you personally solicit or request Nettie Weston, Levy Simpson, Mary Martin, Eleanor A. Phillips to make filing upon any lands in Boise Basin? A. No, sir.

Q. Did you ever know or hear of these people I have named? A. No, sir.

Q. Did you authorize any of your agents or inform any other person to solicit the people named to make timber and stone entries? A. No, sir.

Q. Did you ever have any personal knowledge of the fact that the Barber Lumber Company had acquired from the 4 persons I have named certain lands which had been formerly entered by Anderson, Ball, Hunter, or Wells?

A. Not until the indictment was found against us and proceedings in the indictment were instituted.

Q. I think, Mr. Moon, that the rest of the letters I want to ask about, what few there are, are Mr. Barber's.

[Deposition of James T. Barber, on Behalf of the Defendants (Recalled).]

JAMES T. BARBER, recalled as a witness, testified as follows:

By Mr. BUNDY.—Mr. Barber, do you know a man by the name of N. M. Ruick, formerly United States District Attorney of Idaho?

A. Yes, sir.

Q. I show you a letter page 308 of the copy-book of the company dated January 13-04, and also show you a letter-press copy of letter on page 799 of the same book, dated June 9-06, and ask you if both of

(Deposition of James T. Barber.)

these are letters written by you to Mr. Ruick?

A. Yes, sir.

Q. And as to whether or not between these dates considerable correspondence was carried on between you acting for the Barber Lumber Company and Mr. Ruick, beginning with the first date and closing with the last?

A. Some correspondence and personal interview, etc.

Q. And in a general way what was the subject of such correspondence and interview, Mr. Barber?

A. With reference to the taking over by the company of a survey of the railroad which Mr. Ruick claimed to control, railroad running from Boise over into the Boise Basin and the principal purpose of which railroad was to get into the Basin, there to bring out the timber from that Basin.

Q. These negotiations finally resulted in your company's refusal to go into the railroad business with Mr. Ruick?

A. The negotiations failed.

Q. At or about the middle of June, 1906?

A. Yes, sir.

Q. Mr. Barber, at the time of Governor Steunenberg's death it already appears he was indebted to this company in a considerable amount?

A. Yes, sir.

Q. Practically 7 or 8 or 9 thousand dollars?

A. Yes, sir.

Q. Was it discovered that there were a number of items, things, which had been left for final adjustment which entitled Gov. Steunenberg to some cred-

(Deposition of James T. Barber.)

its? A. Yes, sir.

Q. Can you state in a general way Mr. Barber, how settlement was made if you remember with the Steunenberg estate after his death?

A. I don't know that we made any financial settlement with the Steunenberg estate. I was there some time after his death and left orders with Chapman to file our claims against the estate and supposed it had been done. Since have learned it was not.

Q. There was some stock in the name of Governor Steunenberg, \$37,500.00 in his name at the time of his death? A. Yes, sir.

Q. Did Governor Steunenberg pay for that stock or any part of it?

A. No, sir, there was a small payment on it, \$3,750.00.

Q. That being the amount which Governor Steunenberg had invested in lands at the time you bought out Mr. Sweet? A. Yes, sir.

A. Fully paid stock was issued to him as I understand it for that amount a little more, and the balance charged to his personal account?

A. I think so.

Q. What was subsequently done with the 38 shares of stock that stood in his name and was paid for?

A. It was finally purchased, I think, by the company.

Q. And the money paid to the estate?

A. Paid to the estate less what there was owing

(Deposition of James T. Barber.)

on account of stock.

By Mr. GORDAN.—That had nothing to do with the other amount you claim he owed?

A. No.

By Mr. BUNDY.—What was done with the remaining portion of the stock that stood in his name, that was held as collateral?

A. I thought that was what you were talking about; wait a minute it was all purchased by the company.

Q. And the proceeds used to repay you and Mr. Carson and Mr. Moon for the money you had loaned to Steunenbergh and for which you held the stock as collateral and the balance turned over to the estate?

A. Yes, sir, Carson and I furnished the money to him to pay for his stock subscription \$37,500.00 less \$3,750.00 which he had already paid when we bought in.

Q. I show you a letter, number 583 taken from the files of the company dated February 9-06, a short time after Governor Steunenbergh's death and ask you if that is a letter you received as President of the company on or about that date?

A. Received February 13-06.

Mr. BUNDY.—We offer that letter in evidence. It reads: "Boise, Idaho."

By Mr. GORDAN.—That is objected to as incompetent, irrelevant and immaterial.

(By Mr. BUNDY.)

(Deposition of James T. Barber.)

“February 9-06.

Mr. James T. Barber, President.

Eau Claire, Wis.

Dear Sir:”

(Omitting the first paragraph which does not refer to anything valuable. Last paragraph.)

“In checking over Governor Steunenberg’s account, we find that he has rendered statement and received credit for 229 timber and stone claims at prices varying from \$800.00 to \$1,000.00. Still he has turned over to us 233 titles. His account therefore would seem to be entitled to credit for 4 claims, but we are not sure as to what the amount per claim should be. His statements don’t indicate what claims they were he reported on and received credit for, so that there is no way of determining which one of these four for which he is receiving credit are, nor where they are located. I presume that sometime in the near future the administrator of his estate will wish to take this matter up and possibly we had better have a copy of that part of the contract with him which covers the purchase of these claims.

Yours truly,

L. G. CHAPMAN,
Manager.”

Q. I show you copy of letter found at page 777 of the copy-book of the company and ask you if you wrote that letter and mailed it on or about that date?

A. Yes, sir.

By Mr. BUNDY.—We offer the last paragraph of that letter in evidence.

(Deposition of James T. Barber.)

“Eau Claire, March 6-06.

Mr. L. G. Chapman,
Boise, Idaho.

We are in receipt of a letter today from Mr. Borah in which he says that the administrator of the Steunenberg estate is anxious for a final settlement or adjustment of the Steunenberg interest in this company. I think our books show quite a large indebtedness, some eight or ten thousand dollars standing against Mr. Steunenberg which may possibly be subject to some off-sets. There seems to be a question in the minds of some of us here in regard to 3 or 4 claims which have not been credited to his account, although I don't see how they could well be taken up on our books without some allowance being made to somebody in consideration for them. Please give me all particulars pertaining to this matter of Steunenberg as far as you have them. Kindly give this ledger statement and Steunenberg matter very careful attention.

Yours truly,

JAMES T. BARBER.”

Q. I show you copy of letter found at page 775 of the book of the company; did you write and mail that letter on or about its date? A. Yes, sir.

Q. Addressed to Mr. Wm. Carson at that time vice-president of the company? A. Yes, sir.

By Mr. BUNDY.—We offer that letter in evidence.

(Deposition of James T. Barber.)

“March 5-06.

Mr. Wm. Carson,

Burlington, Iowa.

Dear Sir: I am today in receipt of a letter from Mr. Borah in which he says that Ex Governor Steunenberg's brother has been after him several times for adjustment of the affairs of his deceased brother in connection with this company. My understanding of the situation is that there stands on our books in Boise an indebtedness of some eight or ten thousand dollars against Ex-Governor Steunenberg and for which account he has never rendered any statement. The impression seems to prevail that all or a large portion of this balance was used directly in the interest of the company, although in what way I am unable to state. Mr. Moon agrees with me that we should deal with reasonable liberality in adjusting this matter, but on the other hand Mr. McCartany suggests that we take the position that if the estate will surrender all claims to the stock, you and I now hold against the Governor's notes and transfer the thirty-seven hundred dollars of stock now outstanding and held by the Governor's estate, we would cancel the indebtedness on the books. This seems to me to be a rather cold proposition, if the Governor really spent this money in our interest. I should like to hear from you on this subject and without delay.

Yours truly,

JAMES T. BARBER.”

Q. I show you a letter marked 1211 3-4 taken from the files of the company; did you receive that

(Deposition of James T. Barber.)

letter on or about the time of its date?

A. Yes, on the 9th.

By Mr. BUNDY.—We offer that in evidence.

“Burlington, Iowa, March 7-02.

Mr. James T. Barber,

Eau Claire, Wis.

Dear Sir: I have carefully considered what you have to say relative to a settlement with Governor Steunenberg's estate. I understand there is some eight thousand dollars charged on our books against the Governor for which he has never rendered any account or statement. My impression is the same as your, that the Governor always considered he never received any benefit from this money, and that it was spent in the interest of the Barber Lumber Company. Mr. Rand and I are of the opinion that as liberal a settlement as can properly be made, should be made with the Governor's people. At one time the Governor brought up the question of what would become of his affairs as regards the Barber Lumber Company in case anything should happen to him. I am of the opinion that you were present at that time. I remember that I assured the Governor that I believed he need have no fear that the Barber Lumber Company would not deal fairly and liberally with his people in such a case. It seems to me proper that if the Governor's estate surrender to the company the stock which you and I now hold as collateral for his note, the company should take into consideration the

(Deposition of James T. Barber.)

fact that this stock is of more value than par and the accumulated carrying charges. I would suggest that you make a settlement of this matter, and would say that whatever liberality you see fit to extend to Mrs. Steunenberg and her children will be entirely satisfactory to Mr. Rand and myself.

Yours truly,

WM. CARSON.”

Q. I show you copy of a letter found on page 846 of letter-book of the company; is that a copy of a letter written and mailed by you on or about that date?

A. Yes, sir.

By Mr. BUNDY.—We offer that in evidence.

“August 22-06.

Mr. A. K. Steunenberg,
Caldwell, Idaho.

Dear Sir: I have your of the 17th, it became necessary to deliver the stock sold by Messrs. Carson, Moon and myself to the purchasers on the 20th and the transfer was made for the full amount, The purchasers were allowed to take, which was three thousand shares. This delivery was made without taking in the 375 shares originally subscribed for by your brother. The present stockholders will have a meeting in St. Paul on the 28th and at that meeting will take up the question of the disposal of the 375 shares in question. There seems to have been considerable delay in getting word to and from you in regard to the matter of this stock deal, still I have not given up hope of being able to dispose of the stock for the

(Deposition of James T. Barber.)

estate. The prospect is not as good as it would have been had I been in the position to deliver the stock on the 20th. As soon as this meeting is over, I will let you know what action is taken. In the meantime will retain the certificates for 38 shares, pending some action taken at that time. If that is in any way satisfactory to you, kindly let me know.

Yours truly,

JAMES T. BARBER."

Q. I show you another letter on page 851 of the same book; is that a letter, a statement; is that a copy of the statement made with reference to the 375 shares there was of the capital stock of the Barber Lumber Company at the time that was sold by you for the estate of Steunenbergs? A. Yes, sir.

Q. Can you tell from that what price per share you allowed the estate? A. Yes, sir.

Q. How much? A. \$135.00 a share.

Q. That figured up to \$50,625.00?

A. Yes, sir.

Q. And after taking the amount Governor Steunenbergs owed you and Mr. Carson and interest on it, it left due the estate \$7,760.45?

A. Yes, sir.

Q. Which sum was paid to the estate of Steunenbergs? A. Yes, sir.

Q. I show you a letter page 875 of the same book; is that a letter you wrote Mr. A. K. Steunenbergs?

A. Yes, sir.

By Mr. BUNDY.—We offer that in evidence.

(Deposition of James T. Barber.)

“Eau Claire, September 6-06.

Mr. A. K. Steunenber,
Caldwell, Idaho.

Dear Sir: I am in receipt of assignment of the equity of the estate of Frank Steunenber in the 337 shares of stock of the Barber Lumber Company held as collateral by Mr. Carson, S. G. Moon and writer. And in accordance with my letter and statement of the 30th, I herewith enclose Northwestern Lumber Company's check for \$7,760.45 (seven thousand seven hundred sixty dollars and forty five cents) also three notes dated Caldwell, Idaho. July 16-02 for \$12,500.00 each, payable on or before seven years with interest at six per cent. These notes being stamped paid as today.

JAMES T. BARBER.”

Recess taken to 2 P. M. of this day.

2 o'clock P. M., examination resumed.

JAMES T. BARBER, recalled as a witness, testified as follows:

By Mr. BUNDY.—Mr. Barber, what if any other services did Mr. Steunenber perform out there for the Barber Lumber Company which were not included under his contract, relative to Basin lands?

A. Why, he acted for the company in the purchase of the Crooked River lands and millsite and in other little matters that we had to attend to out there before the company was represented by a regular officer.

Q. And had more or less to do with the negotiations with reference to purchase of state lands?

(Deposition of James T. Barber.)

A. Quite a good deal.

Q. With reference to building dam and getting surveys made for it? A. Yes, sir.

Q. Devoted more or less time there to the company's business there? A. Yes, sir.

Q. I show you a letter found at page 414 of the copy-book and ask you if that is a letter you sent to Mr. Chapman, about its date? A. Yes, sir.

Q. I call your attention to the 3rd paragraph of that letter? A. Yes, sir.

Q. Does that letter refresh your recollection in regard to any arrangements made with Mr. Steunenberg in regard to salary?

A. When Mr. Carson and I were in Boise about that time we made arrangements with Mr. Steunenberg to pay him a salary of \$70.00 a month and to date back something like a year or a year and a half, I have forgotten how long.

By Mr. BUNDY.—We offer that part of that letter.

“Eau Claire, August, 31-04.

Mr. L. G. Chapman,

Boise.

Dear Sir: When we were in Boise, Mr. Carson agreed with Mr. Steunenberg to pay him a salary of \$70.00 a month from the time we had a talk with him some a year and a half ago up to the time of our visit. We desired to settle with Mr. Steunenberg on this basis and it becomes necessary for you to ascertain from him just when he considered he came into our employ under salary.

(Deposition of James T. Barber.)

The continuation of his connection as a salaried man with the company is left with you entirely he being willing to continue at the same basis of wages."

Q. After Governor Steunenberg's death it was found that he had not been credited with any salary?

A. Yes, sir.

Q. And that in addition to discovery that certain titles had been turned over by him for which no credit had been given him and various other matters left his open account larger than you gentlemen in reality thought it ought to be?

A. Yes, sir.

(By Mr. GORDON.)

Q. Does it appear affirmatively in this record from Mr. Barber or Mr. Moon that they did not acquire any of the state lands?

By Mr. BUNDY.—It does, Chapman's evidence.

By Mr. BUNDY.—Did you ever acquire any lands in the State of Idaho?

A. No, sir.

By Mr. BUNDY.—At the time the account of Governor Steunenberg was closed at this office showing eight thousand dollars against him and transfer to the Boise office upon which you paid something like seven thousand dollars, do you know how that stands now?

A. I think it stand to his debit on the books of the company.

By Mr. GORDAN.—How much?

A. Some seven or eight thousand dollars, I can't tell you.

Q. Did you ever adjust 6-4 claims?

A. No.

(Deposition of James T. Barber.)

Q. Do you know whether or not the eight or ten thousand dollars you spoke of as being owing by Steunenberg to the Barber Lumber Company in this amount that he claims now, was there a re-adjustment or didn't they have any adjustment whatever with Steunenberg?

A. I don't think any credit whatever was given him for any services or claim.

Q. When that adjustment was made it may be \$3,000.00 or \$2500.00 less than that?

A. Yes, sir.

By Mr. BUNDY.—They don't know how much less?

A. It may be \$4,000.00 (four thousand) you couldn't tell exactly.

By Mr. BUNDY.—Mr. Barber, the deal was made with his estate for the stock without taking into consideration the open account at all? A. Yes, sir.

Q. I ask you in a general way Mr. Barber, to state what trouble you had if any; what services Governor Steunenberg rendered in the matter of getting lands upon which to build your plant; in a general way?

A. Four or five parties that owned the property that we had determined that it was absolutely necessary for us to secure for the lumber plant with all of us including the Governor devoted a good deal of time to the inspection of Boise river from where it came out of the canyon five or 6 miles above Boise to several miles below Boise and this particular location was the only one which seemed to us available for a millsite, and having no other place in view it

(Deposition of James T. Barber.)

became necessary to secure that one with a great deal of caution because we had to deal with four or five different people and they were all imbued with the idea that some large lumber operations were going to be carried on in that vicinity. And Steunenberg had a great deal of trouble in getting an option; that was the only way we could get there. We would not buy a piece outright until we knew we could get the other piece and there was an endless amount of correspondence in connection with it.

Q. These negotiations began in the latter part of 1902? A. I think so.

Q. I show you a letter, page 36 of the company copy-book and ask you if that is a letter you wrote Mr. Steunenberg with reference to acquiring millsite on December 12-02? A. Yes, sir.

Q. And did you in that letter direct Mr. Steunenberg to take option under a certain form you sent him? A. Yes, sir.

Q. Did you direct that such options be taken in the name of A. E. Palmer? A. Yes, sir.

Q. Now, that land was not land based upon timber and stone entries but cultivated ranches?

A. Cultivated ranches and sage-brush lands mostly.

Q. And you directed him to take them in the name of A. E. Palmer there for what reason?

A. To divert attention from the fact that we were planning to put in a sawmill there and operate largely in timber.

Q. Was the same reason for taking the mill prop-

(Deposition of James T. Barber.)

erty in that way as existed for buying the timber and other property? A. Yes, sir.

Q. Those options were ultimately taken in the name of Mr. Rand? A. Yes, sir.

Q. Do you know why that was?

A. I think it was because Mr. Palmer had ceased to be connected in any business way with the company and left the country.

By Mr. GORDAN.—Were the options taken in Rand's name or title?

By Mr. BUNDY.—The options were taken in Rand's name but when the deeds were taken they were taken in their name.

By Mr. GORDAN.—How many acres are included in the millsite property?

A. Approximately 1000 acres, you can tell there by figuring it up exactly.

Q. I show you copy of a letter on page 165 of the letter-book; you wrote and mailed that to Governor Steunenberg at or about that time?

A. Yes, sir.

By Mr. BUNDY.—That is offered in evidence.

“Eau Claire, June 22, 03.

Hon. Frank Steunenberg,

Boise, Idaho.

Dear Sir: I have your letter of the 17th and in reply will say that I find it will be impossible for me to reach Boise before the expiration of the options you now hold on the millsite. As previously advised you will close these options before purchasing the property before their expiration. We will have fifty

(Deposition of James T. Barber.)

thousand dollars sent to the First National Bank at Boise subject to your order for these purposes. Have Mr. Borah pass on all titles and don't take any chances whatever in the way of defects. The price we pay entitle us to an absolutely perfect change of title.

Yours very truly,
JAMES T. BARBER."

Q. That fifty thousand dollars was sent to his credit? A. Yes, sir.

Q. And charged to Mr. Steunenberg on his account? A. Yes, sir, I think so.

Q. Now, Mr. Barber, in the early part of the summer of 1903 after you had acquired your millsite you filed your articles in the State of Idaho and from that day on, existence of the fact of the Barber Lumber Company doing business there was generally known, was it not, so far as the fact of the Barber Lumber Company being interested in that country? There was no further efforts made to conceal it; I don't know as I give you the date right, but after it did become known, then after that all lands that were bought were taken in the name of the Barber Lumber Company? A. Yes, sir.

Q. And some taken in the Basin that had not been previously acquired?

A. Yes, sir, quite a number.

Q. And that applied in localities where you had previously been buying?

A. Yes, sir, I think in all localities.

Q. It didn't apply up in 6-4?

No answer.

(Deposition of James T. Barber.)

Q. I show you a telegram number 234; did you receive that telegram from Governor Steunenber after Palmer had left the country?

A. Yes, sir.

By Mr. BUNDY.—I offer that telegram in evidence.

“Boise, Idaho, June 19-03.

James T. Barber, Eau Claire, Wis.

Shall I take deeds in name of Barber Lumber Company?

FRANK STEUNENBERG.”

Q. Did you answer that message by the one found on page 162 of the copy-book, next day?

A. Yes, sir.

By Mr. BUNDY.—We offer that in evidence, it reads:

“Eau Claire, Wis. June 20-03.

Hon. Frank Steunenber,

Boise, Idaho.

Yes.

JAMES T. BARBER. President.”

Q. Do you recall Mr. Barber, what deeds was referred to in that telegram in what particular lands or in what locality?

A. I couldn't carry those things.

Q. The reason I am asking is that subsequent to that, this was in June 1903, subsequent to that you bought these 6-4 lands and took title in name of George S. Long where you had not operated before, now in June 1903 in directing Steunenber to take deeds in the name of the Barber Lumber Company,

(Deposition of James T. Barber.)

I want you to explain the apparent discrepancy?

A. Where we had already obtained quite a large amount of land there was no object in covering up the fact that the Barber Lumber Company was buying additional timber holdings, and the 6-4 titles were purchased I think I said in my previous evidence that we didn't desire to have it known that the Barber Lumber Company was buying these titles for the reason as I said it would certainly enhance the value placed upon them by the entrymen.

Q. You had not operated in 6-4 at all up to that time? A. No, sir.

Q. And were still trying to buy lands which belonged to the state of Idaho in that same town?

A. Yes, in that same town.

Q. Here is a letter addressed to Mr. Moon, I don't know whether it refreshes your recollection. Number 651½ and the way it commences taking deeds in Palmer's name, it seems Steunenberg started that himself; do you recollect anything from that letter?

A. I don't believe I do. It was written to Mr. Moon.

Q. It is taken from the files of the company and reads:

“Spokane, Wash., May 2-1902.

S. G. Moon, Esq.

Eau Claire, Wis.

Dear John: Herewith I hand you copy of letter from Steunenberg which explains itself. Have made draft on you today for \$250.00 mentioned in the enclosed letter and exchange \$.25. Have just tele-

(Deposition of James T. Barber.)

phoned Steunenberg to send me a copy, properly signed of the contract, which I will forward to you at once. You mentioned once before not having received this contract, but as I had mailed it I felt same had reached you before I had received your letter, otherwise would have taken the matter up before. I have instructed Steunenberg to send me the final receipt issued to John J. Keene, also deed from Keene and his wife to me, both of which I will mail you promptly with the deed from myself to you and Mr. Barber. The Governor had no instructions whatever to have any deed issued in my name. They are so afraid of opposition that I presume didn't care to have your name or Mr. Barber's appear on the record. There is no question in my mind but that Charles Weyerhouser and Deary are anxious to acquire the Peyette land. Am afraid it will get away from us unless I hear from you soon.

Yours truly,

A. E. PALMER."

Q. What did you or do you understand was meant there by being afraid of opposition?

A. Other parties were attempting to purchase the lands and hence run prices up.

Q. Mr. Barber, at or about the time you began the erection of your plant at Boise, did you have some negotiations extending over a considerable period of time with the Government Forestry Department with reference to exchange of timber? A. Yes, sir.

Q. State in a general way what these were?

A. Nearly the whole timbered section of Idaho in

(Deposition of James T. Barber.)

which we were operating was proclaimed a timber reserve which of course stopped further transaction in the way of timber and stone entries, laying a scrip and that sort of thing. In some trip to Washington or somewhere else we became acquainted with Mr. Pinchot who expressed a desire to in some way include within the reserve, the land owned by the company. We began negotiating some kind of an arrangement or contract, whereby this could be accomplished. Mr. Pinchot met me in Boise and we visited the Boise Basin looking over the lands in a general way as well as we could from roads and trails.

By Mr. GORDON.—When was this, about what time? A. I can't remember those dates.

By Mr. GORDON.—Go ahead then.

A. My impression was that it was in 1903, I think that these negotiations began in 1903. We viewed the land with the idea of its availability for reforesting purposes. We negotiated the details of an agreement whereby the Barber Lumber Company was to log or cut the timber on the lands owned by them within the then defined Forest Reserve. According to laws, rules laid down by the Forestry Department we were to leave all trees less than eight inches in diameter at the base, and all bushy large trees which were great cone bearers for seed purposes. We were to take care of all the limbs by burning, and when we had finished our operations on the land from time to time, we were to deed it back to the United States. In return for this the United

(Deposition of James T. Barber.)

States or the Forestry Department was to give us a certain amount of what they called ripe timber.

Timber which had reached its growth, reached its maturity which should be logged and utilized in order to secure the best results. These negotiations were pending when this action was commenced and were, of course, at once declared off, the United States declining to negotiate or trade with anybody who was on the property.

Q. Now, Mr. Barber, I want to ask you some general questions, maybe I have asked them before; I want them to go into the record where we can find it.

At the time you made your arrangement with Governor Steunenberg at Eau Claire here, and at the time the deal was closed by Mr. Palmer at Boise on April 10-02, were you wired or had you been advised by anyone to the effect that Mr. Sweet or Mr. Steunenberg or either of them had been advancing money to timber and stone claimants with which to make final proof? A. No, sir.

Q. At that time did you know or were you advised of the fact that the Government had not issued final receipts and receiver's certificates on the lands on which final proof had been made? A. No, sir.

Q. At either of these times did you have any knowledge or notice and were you advised that either Governor Steunenberg or Mr. Sweet had not acquired actual title to lands? A. No, sir.

Q. At the time of making that investment and agreement state whether or not you were informed and believed that Mr. Steunenberg and Mr. Sweet

(Deposition of James T. Barber.)

had purchased lands as they represented to you that they had?

A. I fully believe that they had purchased the lands as represented.

Q. Did you authorize Steunenberg, Palmer or any other person in behalf of you or Mr. Moon to solicit or induce any man or woman to exercise their rights under the timber or stone claims?

A. No, sir.

Q. Did you do it yourself? A. No, sir.

Q. Did you authorize Palmer, Steunenberg or any other person to use your money or Mr. Moon's money or the money of the Barber Lumber Company with which to make advances for final proofs or otherwise? A. No, sir.

Q. Did you authorize such advancement to timber and stone entrymen for the purpose of covering any expenses? A. No, sir.

Q. Was any of your money advanced to timber and stone claimants with your knowledge or with your consent? A. No, sir.

Q. Did you enter into any agreement with Mr. Moon, Wm. Sweet, John Kinkaid, Louis Pritchard, Patrick Downs, Albert Palmer, Horace S. Rand, George S. Long, John I. Wells, Frank Steunenberg or any or either of them having for this purpose the inducing of people to enter timber and stone claims and thereafter turning them over to you or some company you got organized? A. No sir.

Q. Were you at any time, directly or indirectly, and had you any agreement, understanding or ar-

(Deposition of James T. Barber.)

rangement by which people were to be induced to enter timber and stone claims for your benefit or the benefit of the Barber Lumber Company and thereafter, turning the title from them to you or your company? A. No, sir.

Q. Were you ever requested by Governor Steunenberg to reimburse him for moneys he spent in employing counsel in the contested cases of Arthur Anderson, Nugent, Ball, Hunter or Wells?

A. No, sir.

Q. Was any of your money or of the company's money ever spent with your knowledge or consent or authority for such purpose? A. No, sir.

Q. Was any land acquired by you or Mr. Moon, or the Barber Lumber Company in the State of Idaho in violation of the timber and stone law with your knowledge or consent? A. No, sir.

Q. Were you at any time, Mr. Barber, familiar with the accounting of the Barber Lumber Company or its bookkeeping?

A. No, sir, the matter was left to Mr. Cotton almost entirely.

Q. At the time Governor Steunenberg came here in July-04 and made continuation of previous reports he had made; did you go over with him the items personally?

A. I don't think so; no, sir.

Q. Have you any recollection of having called to your attention any charge for any contested cases?

A. No, sir.

Q. Did he at any time tell you of the fact he had

(Deposition of James T. Barber.)

contested cases that I have mentioned, that is for Wells, et al.? A. No, sir.

Q. Did you ever hear of these cases or appeals taken until the indictment served upon you by the United States? A. No, sir.

Q. I think that is all Mr. Barber for the present, I may want to call you for one or two things later on.

Q. Did you know anything about the relations between Governor Steunenberg and Mr. Sweet after you had bought out Sweet's interest?

A. Nothing definite at all; Mr. Sweet I think wrote a letter to me.

Q. Do you know whether it was a long time after that?

A. A long time after that; I knew nothing about it at all.

Q. Did you know anything about some controversy between him and Governor Steunenberg in regard to certain moneys it was claimed Steunenberg held of Sweet? A. No.

Q. Do you know anything of the manner in which they settled their controversy? A. No, sir.

That is all, Mr. Barber.

[Deposition of S. G. Moon, on Behalf of the Defendants (Recalled).]

S. G. MOON, recalled as a witness, testified as follows:

By Mr. BUNDY.—At the time Governor Steunenberg made his arrangements with you at Eau Claire in March, 1902, and at the time that contract was consummated and closed by Palmer at Boise on

(Deposition of S. G. Moon.)

April 10-02, did you know of the fact or had you been advised of the fact that Steunenberg and Sweet or either of them had been advancing money to entrymen and entrywomen for the purpose of making final proofs on timber and stone claims?

A. No, sir.

Q. Did you know at that time that final receipts had been issued on the final proofs which had been made at the Boise land office? A. No, sir.

Q. Did you know at that time or had you been advised in any manner that Mr. Steunenberg and Sweet had not in fact acquired title to any lands?

A. No, sir.

Q. Would you have made the investment you made had you known the titles they had were based upon temporary receipt? A. No, sir.

Q. Did you at any time, personally or as an officer of the Barber Lumber Company, induce or request or solicit any man or woman to make an entry under the Timber and Stone Act in the State of Idaho? A. No, sir.

Q. Did you authorize any person to solicit or induce or request any man or woman to make such entries? A. No, sir.

Q. Did you authorize any person or agent of the Barber Lumber Company to advance money to any person for the purpose of procuring land from the United States by means of the Timber and Stone Act? A. No, sir.

Q. Did you know and do you know now of any of your money or Mr. Barber's money or the Barber

(Deposition of S. G. Moon.)

Lumber Company's money having been so used?

A. No, sir.

Q. Were you at any time requested by Governor Steunenberg to reimburse him for any moneys which he had paid to attorneys or other expenses alleged to have been incurred in defending certain contests against claims of Anderson, Ball, Nugent, Hunter, Wells?

A. No, sir.

Q. Did you know anything about such contested cases or appeals taken therefrom prior to the time the indictment was served upon you in this State a year or two ago?

A. No, sir.

Q. Were you at any time a party to an agreement between yourself, James T. Barber, Wm. Sweet, John Kinkaid, Louis M. Pritchard, Patrick Downs, A. E. Palmer, Horace S. Rand, George S. Long, John I. Wells and Frank Steunenberg or either or any of them which had for its object the inducing of people to exercise their rights under the Timber and Stone Act with the view to turning the title over to you or the company when the same was acquired?

A. No, sir.

Q. Did you ever hear or know of any such agreement?

A. No, sir.

Q. Between yourself or any of the other parties?

A. No, sir.

Q. Did you know or do you know now of any lands having been procured by yourself, Mr. Barber or the Barber Lumber Company in the State of Idaho in violation of the Timber and Stone Act?

A. No, sir.

(Deposition of S. G. Moon.)

Q. Mr. Moon, you are secretary of the Barber Lumber Company, are you not? A. Yes, sir.

Q. And have been since it was organized?

A. Yes, sir.

Q. And have you with you here the corporate records of the company? A. Yes, sir.

Q. Will you state when that company was organized and who the incorporators were?

A. It was organized July 9-02.

Q. And who were the incorporators?

A. C. W. Lockwood, J. T. Barber and S. G. Moon.

Q. And what was the original capital stock of the company?

A. One hundred and fifty thousand dollars.

Q. And who were the original subscribers?

A. James T. Barber, 475 shares, C. W. Lockwood, 549 shares; W. Carson, one share; C. D. Moon, 130 shares; S. G. Moon, 345 shares.

Q. At the first meeting of the stockholders of the Barber Lumber Company state as to whether or not a resolution was adopted relative to the contract which you and Mr. Barber had made with Governor Steunenbergh and which contract has been offered in evidence? And is the contract set forth in full in the minutes of that meeting? A. Yes, sir.

Q. And the resolution after reciting the making of the contract and setting it forth in full is as follows:

“Now, therefore, be it resolved that this corporation does hereby assume to carry out the provisions of said contract in so far as they apply and are obli-

(Deposition of S. G. Moon.)

gatory upon said James T. Barber and S. G. Moon.

And be it further resolved, that the directors and officers of this corporation are hereby authorized and instructed to ascertain the amount of money actually expended by said Barber and Moon in carrying out the provisions of said contract, and refund and pay over to said Barber and Moon such amount upon the transfer of said corporation of such titles as they may have to all lands acquired by them under the provisions of said contract and to pay interest on the said amount from date of payment until date of such repayment at the rate of five per cent per annum.

And be it further resolved that such expenditures as may have been incurred and not paid by said Barber and Moon and such money obligations as they may have assumed and agreed to pay in accordance with the provisions of said contract shall be assumed and paid by this corporation.”

I have correctly read the resolving part of the resolution? A. Yes, sir.

Q. Was that resolution complied with by the officers and directors of the company?

A. Yes, sir.

Q. And was the amount of money which you and Mr. Barber had invested in procuring lands in the State of Idaho repaid to you by the Barber Lumber Company with five per cent interest as indicated by that resolution? A. Yes, sir.

Q. And can you tell on what date that payment was made or credit given to you, Mr. Moon, and Mr. Barber by looking at the books of Mr. Moon?

(Deposition of S. G. Moon.)

A. Yes, sir, on July 23-02.

Q. And what was the amount of that payment?

A. That was \$68,853.99 (sixty-eight thousand, eight hundred fifty-three dollars and ninety-nine cents).

Q. Now, Mr. Moon, the capital stock of the company has been increased from time to time to meet the demand caused by the expansion of business, has it not?

A. Yes, sir.

Q. Have you produced here the stock certificate-book showing the person to which each certificate has been issued since the formation of the company?

A. Yes, sir.

Q. And what certificates have been cancelled?

A. Yes, sir.

Q. Have you prepared at my request a statement showing the number of each certificate, the date, to who issued, the number of shares, and when the same had been cancelled, and date of cancellation, from the organization of the company down to date?

A. Yes, sir.

Q. And that is the paper I show you, is it?

A. Yes, sir.

Q. Paper marked Defendant's Exhibit "B" is a true and correct statement of the issue of the various certificates as stated, is it not?

A. Yes.

Q. I show you paper Defendant's Exhibit "C"; is that a statement which you have prepared from the stock certificate-book of the company showing the names of the present stockholders and number of shares held by each?

A. Yes, sir.

(Deposition of S. G. Moon.)

Q. Being the total number of shares now outstanding 13,955? A. Yes, sir.

Q. Of the par value of \$1,395,500.00?

A. Yes, sir.

Q. And that amount has been actually paid in and invested in the affairs of the company?

A. Yes, sir.

Q. And in addition to that there has been another increase of the capital stock which has been partly subscribed, and a certain part of that subscription paid? A. Yes, sir.

Q. And has that been subscribed by the same stockholders on this Exhibit C or any new ones?

A. There are no new ones that I remember of. The subscription list is in the record-book.

Q. See if these subscriptions were the same stockholders?

A. Yes, there are no new stockholders, except what are shown on this exhibit "C."

By Mr. BUNDY.—We offer exhibit "C" in evidence. I also offer exhibit "B" in evidence too. That is all, Mr. Moon.

Defendant's Exhibit "B."**BARBER LUMBER STOCK.**

Certificate Number.	Date.		Number of Shares.		
1	Dec. 17th, '02.	James T. Barber	330	Cancelled Aug. 20th, '06.	
2	"	Joseph G. Dudley	50		
3	"	C. D. Moon	130		
4	"	A. E. Macartney	50		
5	"	William Carson	1		
6	"	H. S. Rand	50		
7	"	Frank Steunenber....	125	Cancelled Nov. 8th, '04.	
8	"	do	125	Cancelled Nov. 8th, '04.	
9	"	do	125	Cancelled June 2d, '03.	
10	"	C. W. Lockwood	100		
11	"	do	100		
12	"	do	100		
13	"	do	64		
14	"	L. G. Chapman	30	Cancelled Meh. 2d, '09.	
15	"	S. G. Moon	120		
16	June 2d, '03.	William Carson	125	Cancelled Sept. 12th, '06.	
17	Nov. 8th, '04.	James T. Barber	104	Cancelled	"
18	"	Frank Steunenber....	19	Cancelled	"
19	"	S. G. Moon	104	Cancelled	"
20	"	Frank Steunenber....	19	Cancelled	"
21	"	S. G. Moon	2	Cancelled	"
22	"	James T. Barber	2	Cancelled	"
23	Jan. 7th, '05.	James T. Barber	670	Cancelled Aug. 20th, '06	
24	"	C. W. Lockwood	1456		
25	"	William Carson	4		
26	"	H. S. Rand	200		
27	"	A. E. Macartney	200	Cancelled Meh. 2d, '05.	
28	"	C. D. Moon	470		
29	"	J. A. Smith	50		
30	"	L. G. Chapman.....	20	Cancelled Meh. 2d, '05.	
31	"	Sallie F. Moon	500	Cancelled July 18th, '06.	
32	"	G. D. Hoseley	50	Cancelled June 1st, '05.	
33	"	C. A. Chamberlain	150		
34	"	S. G. Moon	730	Cancelled Aug. 11th, '06.	
35	Meh. 22d, '05.	A. E. Macartney	100	Cancelled Aug. 20th, '06.	
36	"	do	50	Cancelled Aug. 20th, '06.	
37	"	do	50		
38	June 1st, '05.	Sallie F. Moon	50	Cancelled July 18th, '06.	
39	Dec. 21st, '05.	James T. Barber	660	Cancelled Aug. 11th, '06.	
40	"	C. W. Lockwood	1213	Cancelled Aug. 16th, '06.	
41	"	William Carson	3		
42	"	A. E. Macartney	166	Cancelled July 11th, '06.	
43	"	H. S. Rand	166		
44	"	C. D. Moon	400	Cancelled Oct. 1st, '06.	

BARBER LUMBER CO. STOCK (2).

Certificate Number.	Date.		Number of Shares.	
45	Dec. 21st, '05.	James A. Smith	33	
46	"	L. G. Chapman	33	Cancelled Mch. 2, '09.
47	"	Joseph G. Dudley	33	
48	"	Sallie F. Moon	333	Cancelled July 18, '06.
49	"	C. A. Chamberlin	100	
50	"	S. G. Moon	566	Cancelled Aug. 31, '06.
51	Jan. 11th, '06.	A. E. Macartney	100	Cancelled Aug. 20, '06.
52	"	do	36	Cancelled Aug. 20, '06.
53	"	do	30	Cancelled Aug. 20, '06.
54	Jan. 18th, '06.	L. G. Chapman	167	Cancelled Mch. 2, '09.
55	May 4th, '06.	C. F. Davis	50	Cancelled Sep. 20, '06.
56	July 18th, '06.	Sallie F. Moon Co.	883	Cancelled Aug. 31, '06.
57	Aug. 11th, '06.	S. G. Moon	416	Cancelled Aug. 20, '06.
58	"	do	314	
59	"	James T. Barber	650	Cancelled Aug. 20, '06.
60	"	do	16	
61	Aug. 16th, '06.	C. W. Lockwood	618	Cancelled Aug. 20, '06.
62	"	do	595	
63	Aug. 20th, '06.	F. S. Bell	1	
64	"	William H. Laird Co..	499	
65	"	Mathew G. Norton Co..	500	
66	"	F. H. Thatcher	1	
67	"	Pine Land Co.....	499	
68	"	J. P. Weyerhauser....	750	
69	"	G. A. Weyerhauser....	1	
70	"	R. M. Weyerhauser....	1	
71	"	F. E. Weyerhauser....	1	
72	"	F. Weyerhauser	747	Cancelled May 13th, '07.
73	"	Not issued.		
74	Aug. 31st, '06.	James T. Barber... ..	64	
75	"	Sallie F. Moon Co....	819	Cancelled Sept. 27th, '06.
76	"	S. G. Moon	180	
77	"	do	186	
78	"	do	200	
79	Sept. 27th, '06.	C. W. Lockwood	50	
80	"	Angeline M. Dudley...	210	
81	"	D. R. Moon	300	
82	"	Sallie F. Moon Co....	309	
83	Oct. 1st, '06.	C. D. Moon.....	200	
84	"	do	200	
85	Nov. 24th, '06.	James T. Barber	40	
86	"	Joseph G. Dudley	41	
87	"	Sallie F. Moon Co....	409	Cancelled Nov. 28, '06.
88	"	S. G. Moon	500	

BARBER LUMBER CO. STOCK (3)

Certificate Number.	Date.	Number of Shares.	
89	Nov. 24th, '06.	L. G. Chapman 125	Cancelled Mch. 2, '09.
90	"	Wm. H. Laird Co. 250	
91	"	Matthew G. Norton Co. 250	
92	"	Pine Land Co..... 250	
93	"	J. P. Weyerhauser 375	
94	"	F. Weyerhauser 375	Cancelled May 13, '07.
95	"	A. E. Macartney 25	
96	"	do 25	
97	"	C. D. Moon 500	
98	"	C. W. Lockwood 1207	
99	"	William Carson 4	
100	"	C. F. Davis 25	Cancelled Nov. 28, '06.
101	"	Horace S. Rand 208	
102	"	J. A. Smith 42	
103	"	C. A. Chamberlin 125	
104	Nov. 28, '06.	Pauline M. Haueisen.. 100	
105	"	Sallie F. Moon Co. 309	
106	"	C. W. Lockwood 25	
107	May 13th, '07.	F. Weyerhauser Co. ... 1122	

Defendant's Exhibit "C."

OUTSTANDING STOCK OF BARBER LUMBER CO., May 1st, 1909.

Joseph C. Dudley	124	shares
C. D. Moon	1500	"
A. E. Macartney	150	"
William Carson	12	"
H. S. Rand	624	"
C. W. Lockwood.....	3697	"
S. G. Moon	1500	"
Jas. A. Smith	125	"
C. A. Chamberlain	375	"
F. S. Bell	1	"
Wm. H. Laird Co.....	749	"
Matthew G. Norton Co.....	750	"
F. H. Thatcher	1	"
Pine Land Co.....	749	"

J. P. Weyerhauser Co.....	1125	“
C. A. Weyerhauser	1	“
R. M. Weyerhauser	1	“
F. E. Weyerhauser	1	“
F. Weyerhauser Co.....	1122	“
James T. Barber	120	“
Angeline M. Dudley	210	“
D. R. Moon	300	“
Sallie F. Moon Company.....	618	“
Pauline M. Haueisen.....	100	“

Total, 13955 shares

[Deposition of F. H. L. Cotten, on Behalf of the Defendants.]

F. H. L. COTTEN, being first duly sworn on oath, testified as follows:

By Mr. BUNDY.—Mr. Cotten, you live in this city, do you not? A. Yes, sir.

Q. How long have you lived here?

A. A little more than twenty-nine years.

Q. And are cashier of the Northwestern Lumber Company? A. Yes, sir.

Q. And have general charge of the defendant's accounting department? A. Yes, sir.

Q. And of its office forces? A. Yes.

Q. And have had such charge of how long?

A. Nearly 28 years; have been in the office all the time and in charge about 28.

Q. Do you remember the time when Mr. Barber and Mr. Moon began making investments in the State of Idaho? A. Yes, sir.

(Deposition of F. H. L. Cotten.)

Q. The money used in that investment was paid by the Northwestern Lumber Company and charged to Mr. Barber and Mr. Moon?

A. Yes, sir, at first.

Q. And that account of Barber and Moon was kept on what books at first?

A. Northwestern Lumber Company's.

Q. And was that account simply a record of money sent there and incidental expenses paid by the Northwestern Lumber Company in connection with their Idaho investments? A. Yes, sir.

Q. Nothing appeared on the credit side of that account? A. I think not.

Q. At some time after the organization, or about the time of the organization of the company was there a set of books started at Eau Claire for the Barber Lumber Company?

A. Yes, some little time, I think, after.

Q. I show you here on my desk these three volumes, Journal A, Cash A, and Ledger A; are these the books of the Barber Lumber Company started here at Eau Claire? A. Yes, sir; they are.

Q. And were these books opened and started under your direction? A. They were.

Q. You may state the date on which they were opened? A. May 20-04.

Q. Now, Mr. Cotten, does that indicate the date of the first transaction recorded in the books, or is that the date when this set of books were originally opened?

A. It was when they were written up.

(Deposition of F. H. L. Cotten.)

Q. The records, transactions, began with the beginning of the business?

A. Beginning of the business.

Q. And does it include in these books, correctly transcribed, a history of the proceedings had before the corporation was formed? A. Yes, sir.

Q. And includes in it all of the money, and accounts for all of the money paid to the Northwestern Lumber Company and originally charged to Barber and Moon? A. Yes, sir.

Q. And when it was paid back to Barber and Moon by the Barber Lumber Company it was credited to Barber and Moon on the books of the Barber Lumber Company on page one, I think that is the account; I think there was nothing paid back until this account was transferred to the Barber Lumber Company. When it was paid it was credited to the Barber Lumber Company on this account.

Q. So these three books shown you cover all entries, business of Barber and Moon in Idaho, and of the Barber Lumber Company from the time of its organization until the accounts were transferred to its office in Boise, Idaho? A. Yes, sir.

Q. When was it transferred to the Boise office in Idaho, this account?

A. That was in December 19-1904.

Q. Now, will you state what accounts were transferred to the Boise office on that date, giving the balance of each account as you transferred it?

A. Well, there is Frank Steunenber, \$6,710.50.

G. D. Hosely, \$479.00

(Deposition of F. H. L. Cotten.)

Mill property, \$49,471.50.

Northern Pacific land deal, \$5,000.00.

Land account, \$215,144.00

Land expenses, \$6,991.05.

Caston ranch, \$216.62.

Livestock, \$534.00.

Stumpage, \$1,465.88.

Taxes, \$2,869.16.

Personal property, \$22.85.

Expense account, \$2,127.19.

Attorney's fees, \$3,200.00.

Q. Now, at the time of the transfer, Mr. Cotten, you sent out to the Boise office a complete transfer of the accounts which show the balances you have read?

A. I think there was an itemized statement of everything.

Q. So that the Boise office in starting from the statements you took off these books and kept here at Eau Claire, would be as to those accounts an exact transcript of the books here?

A. Yes, sir; they had an exact transcript.

Q. So that these books, Barber Lumber Company's books, here at Eau Claire, which are shown you, do not contain anything relative to the accounts you have read which were transferred, which does not appear on the Boise books?

A. No, sir; nothing that I know of.

Q. And the Boise books would not contain anything relating to these accounts prior to December, 1904, which these books contain?

(Deposition of F. H. L. Cotten.)

A. No, sir; I think not.

Q. The Boise office Mr. Cotten, contains it all?

A. Of course, I never saw the Boise books in the first place before the Barber Lumber Company was organized; all the money advanced was charged to Barber and Moon on the Northwestern Company's books, and then later when the Barber Lumber Company was organized the balance of this Barber and Moon account was transferred to the Barber Lumber Company, and the further advances were charged to the Barber Lumber Company. Now, these two accounts were the only ones on the Northwestern Lumber Company's books in regard to the Barber Lumber Company's business. Later on when we opened these books, the Barber Lumber Company's books, we discontinued the home office books. The itemized statement of these two accounts and entries on these books made from the statement in detail kept on the Barber Lumber Company's books, is a proper explanation of entries as they were made?

Q. Then the books that are presented here are the home office books; were written up in May 20, 1904?

A. Yes, sir.

Q. And they went back to the beginning of the first dollar invested?

A. Yes, sir.

Q. And contain a complete transcript of every dollar invested and show where it went to up to the time that these accounts were closed out or some of the accounts were closed out and transferred to the Boise office in December, 1904?

A. Yes, sir.

(Deposition of F. H. L. Cotten.)

Q. At the time you sent out to Boise to open up the Boise books you sent a detailed statement of accounts transferred as it appeared on the home office books up to that time, namely December 19-04, that is a statement of the account transferred?

A. Yes, sir.

Q. You have read into the record the accounts that were transferred out with it at that time?

A. Yes, sir.

Q. Now, what accounts were not transferred, but were retained and kept on the home office books?

A. There was the stock accounts and subscription accounts, subscription for stock and then of course, expense account was transferred out there, but naturally there was some expense here, attorney's fees, but only a few accounts kept here. I think one of the various accounts was with the Oregon Short Line Railroad there.

Q. The first credit found on the account of Frank Steunenberg for \$61,605.50 (sixty-one thousand six hundred and five dollars and fifty cents) was made from the statement rendered and signed by Mr. Steunenberg and which you hold in your hand and which is marked and introduced in evidence here as number 279, is it not?

A. Yes, sir.

Q. And the total amount of credits claimed on this item was \$83,560.00, was it not?

A. Yes, sir.

Q. And the credit given him was that amount less 50 cents error in computation and less \$21,950.00 Sweet's investment which was not charged to Steu-

(Deposition of F. H. L. Cotten.)

nenberg? A. Yes, sir.

Q. Now, this second credit appearing on the account of Frank Steunenberg is for \$84,508.04; I will ask you Mr. Cotten if that credit was given him based upon statement rendered by Governor Steunenberg, dated July 7-03? A. Yes, sir.

Q. And was offered in evidence marked 280?

A. Yes, sir.

Q. So he was credited for the amount shown by his statement of July 7, \$84,508.04?

A. Yes, sir.

Q. Now, the third credit on the account of Governor Frank Steunenberg is for \$91,928.71 and is entered under date June 30-04?

A. That is right.

Q. Now, I show you the last 4, 5, 6 and 7th pages of the statement which has been offered in evidence, and received as 280 $\frac{1}{2}$, and ask you if that credit was not given Governor Steunenberg based upon that statement? A. It was.

Q. Now, that credit of \$91,928.71 on the journal of the company was divided into the proper accounts to which it ought to be charged, namely, millsite, expense, lands, land expense, attorney's fees, interest and taxes, was it not? A. Yes, sir.

Q. And when that account was transferred to Boise, instead of one big credit given in a lump he was credited with that amount and charged to these various heads into which it had been divided?

A. Yes, sir.

Q. Now, Mr. Cotten, I notice on the pages of this

(Deposition of F. H. L. Cotten.)

2801½ which constitutes the statement from which this credit is taken, a lot of notations in lead pencil at the right indicating to what account they should be charged. In whose handwriting are these notations? A. Mine.

Q. Do you recollect the time when these pages constituting part of 2801½, which is marked a “continuation of report July 7-03,” part of which is marked “continuation of report of Oct. 5-03” and the last page of which is marked “personal expenses incurred, March 2-02 to January -03, was made?

A. Yes, sir.

Q. Where was it made? A. At our office.

Q. On whose typewriter?

A. Our, that is the Northwestern Lumber Company's.

Q. State whether or not Governor Steunenberg was here. A. He was.

Q. Who dictated to the stenographer the items making up these reports upon which that credit is based? A. Mr. Steunenberg.

Q. Do you recollect the condition in which he had the reports when he arrived here? A. Yes, sir.

Q. Just state how he had it.

A. We had been waiting for him two or three months or more to get a statement and when he came it was not in very good shape. He didn't seem to have much idea of rendering statements. He would start in, he had some items on it that were in the previous statement, I could not tell which ones, and they lapped over, and he and I went over it together

(Deposition of F. H. L. Cotten.)

and checked out all the entries that were found that he had accounted for in previous statements and I told him, I says, you had better go upstairs and dictate this to Miss Horan, that was our stenographer.

Q. And he did that?

A. He did that. And when he came down, he had the two sides unfooted or if he had them footed; he had that footed, you see here. He had here a charge footed up, here; and I explained to him I wanted them made continuous so they would know what the balance was and when he made a statement again it should begin with that balance.

Q. On the first page of this statement, marked "Continuation of report of July 7" starts with this item "July 7-03 to balance from statement \$2,008.04, does it not?

A. Yes, sir.

Q. Now, I show you a statement from which the first credit was given him and ask you if at the last page, if the lead pencil notations are yours?

A. Yes, they are.

Q. And consist of a computation in which he was given credit for \$84,608.04 as shown by his first statement from which you have deducted \$82,600.00 with which he was debited and the balance shown is \$2,008.04?

A. Yes, sir.

Q. So that he commenced the next statement with that balance?

A. With that balance, yes, sir.

Q. Now, the same thing is true with that part of the statement headed "Continuation of report Oct. 5," is it not?

A. Yes, sir.

Q. Starts with balance of \$781.00?

(Deposition of F. H. L. Cotten.)

A. Yes, sir.

Q. And that balance is shown by computation in your figures on exhibit 279? A. Yes, sir.

Q. Now, Mr. Cotten, these statements rendered by Steunenberg constituted the only information or data you had at this office from which to determine what credits he was entitled to, to offset the moneys you had sent him? A. Yes, sir.

Q. And did you have any other figures or books of account or records of any kind from which to determine what credits Mr. Steunenberg was entitled to, other than the statement he rendered?

A. The statement was the only thing.

Q. So that whatever credits were given him on his account, were based upon his own statement rendered? A. Yes, sir.

Q. Did you ever receive from Mr. Steunenberg any subsequent report later than the one marked 2801½ which was made by him here in July, 1904?

A. Why, I couldn't say as to that; I don't recollect any.

Q. Can you tell by looking at the books?

A. If there are none on the books, I would say there were none.

Q. This statement covered it all, so these two statements marked respectively 279 and 2801½ constituted all of the statements rendered by Steunenberg to the company from which the books were made up and from which his credits were taken?

A. At this office you mean?

Q. Yes. A. Yes.

(Deposition of F. H. L. Cotten.)

Q. And all statements were made to this office until the transfer was made?

A. Until these accounts were transferred, yes, sir.

Q. Did Mr. Barber or Mr. Moon or either of them go over this statement marked 2801½ which Mr. Steunenberg prepared at Eau Claire here, so far as you know?

A. No, sir; I couldn't say as to that.

Q. You went over it with him yourself?

A. I went over it with Mr. Steunenberg and asked him about the different things and marked them as to what they should be charged to.

Q. In conducting the affairs of the Northwestern Lumber Company and the Barber Lumber Company, I ask you as to whether you had to determine the account to which various expenditures should be charged to?

A. Yes; I did not on personal matters; on personal matters everybody vouches for them himself.

Q. On statement 2801½ there are certain charges here, under date of December 14-03; "To expenses in trial cases \$100.00"; same day, "To expense trial of cases \$200.00"; December 30th, "To expense trial of cases \$380.00"; January 2-04, "To expense trial of cases \$20.00"; after which you have marked after each one of these "Attorney's fees"?

A. Yes, sir.

Q. I will ask you on what information you charged that to that account?

A. I asked Steunenberg what the nature of these

(Deposition of F. H. L. Cotten.)

expenses were and he said there was attorney's fees and other expenses connected with it. We opened this account on the same line we have carried similar accounts on the Northwestern Lumber Company's books.

Q. Did you have any personal notice about cases that the company were interested in there?

A. No, sir.

Q. Did Mr. Steunenberg inform you and tell you about them? A. No, sir.

Q. What kind of cases they were?

A. No, sir.

Q. You simply wrote it on the strength of his statement that they were attorney's fees?

A. Yes, sir.

Q. Is that true of the other items marked attorney's fees on here, if there are such?

A. Yes, sir.

Q. Mr. Cotten, at the inception of the Idaho investment by Mr. Barber and Mr. Moon drafts were drawn on them by A. E. Palmer?

A. Yes, sir.

Q. Who paid these drafts?

A. Northwestern Lumber Company.

Q. And to whom did the Northwestern Lumber Company charge the amounts so paid?

A. To Barber and Moon.

Q. What were the relations of Barber and Moon to the Northwestern Lumber Company so far as these advances were concerned?

A. Simply an individual matter, we made charges

(Deposition of F. H. L. Cotten.)

to them personally.

Q. As a loan?

A. As an advancement on their investments which they were to pay back with interest.

Q. Did they pay it back, Mr. Cotten?

A. The Barber Lumber Company did, their successors.

Q. Mr. Cotten, what was the total amount of credits given to Frank Steunenberg on his account page 3 of the home office books up to the time of the transfer so made to the Boise office his account?

A. \$240,315.50.

Q. And these are the credits you have testified were given to his account based upon the statement made by Steunenberg which I have shown you?

A. All with the exception of the \$1.50 which was spent on drafts.

Q. That is all, so far as I am concerned, Mr. Cotten.

Examination adjourned 10 o'clock A. M. on May 14-09, at this office.

May 14-09, 10 o'clock A. M., examination resumed at this office.

F. H. L. COTTEN, recalled as a witness, testified as follows:

Cross-examination.

By Mr. GORDON.—Mr. Cotten, I understood you to say you were the cashier of the Northwestern Lumber Company and had held that position for about 28 years?

A. For about that, yes, sir.

Q. And the ledger, journal and cash-book of the

(Deposition of F. H. L. Cotten.)

Barber Lumber Company shown you yesterday, I understood you to say you directed the opening of these books? A. Yes, sir.

Q. Who in fact did open the books and made the notations in them at the time the books were turned over to the Barber Lumber Company?

A. Do you mean at the time they were turned over here last December?

Q. When they were opened in the first instance?

A. The writing, I think, will show, Mr. Dawes' handwriting.

Q. Who is Mr. Dawes?

A. The gentleman you met this morning, the bookkeeper.

Q. Of the Northwestern Lumber Company?

A. Yes, and was at that time.

Q. None of the items in this book were put in there by you, were they? A. I think not.

Q. Now, at the time these books of the Barber Lumber Company were opened, which was in May-04?

A. I think that is the date that is on there, May 20-04.

Q. What were these books supposed to contain at that time?

A. Contain all transactions with Mr. Barber and Mr. Moon and the Barber Lumber Company.

Q. That is the defendant James T. Barber and Sumner G. Moon and the Barber Lumber Company?

A. Yes, sir.

Q. From what were they taken?

(Deposition of F. H. L. Cotten.)

A. From accounts of Barber and Moon and Barber Lumber Company on the Northwestern Lumber Company's books.

Q. Did you ever compare these books with the Northwestern Lumber Company's books to see if they were correct and included all the items?

A. Compared with the statements, or with statements similar to that, one or the other, I couldn't say which was compared with the books; and these books were written up from the statements.

By Mr. BUNDY.—You say all accounts of Barber and Moon and Barber Lumber Company?

A. Yes, sir.

By Mr. BUNDY.—That is a little indefinite; don't they contain all the accounts of Steunenberg and other people with the Barber Lumber Company as well as all the moneys advanced to Steunenberg, were charged to Barber and Moon; and these books show many credits to Steunenberg?

A. These of course were made from the statements Steunenberg had rendered and were not entered on the Northwestern Lumber Company's books at all.

By Mr. BUNDY.—That is what I was trying to get at; nor in charging the Steunenberg account for the money, it does not appear on the Northwestern Lumber Company's books at all? A. No, sir.

By Mr. GORDON.—Do you know whether the items noted in the cash-book, journal and ledger of the Barber Lumber Company are the identical items covering the same period as are contained in the

(Deposition of F. H. L. Cotten.)

Northwestern Lumber Company's books covering the same transaction and same period?

A. I have not examined the items but think they were written up from each statement, we undertook to prove our work and I think there is no question about that.

Q. Evidently there are two statements made by the employees or officers of the Northwestern Lumber Company covering the same period and same transaction in regard to Barber Lumber Company and Barber and Moon, are there not?

A. There seemed to be from our examination this morning.

Q. You say these books are made up from one of these statements?

A. Yes, made up from, either one would be the same.

Q. You mean the totals would be the same, balance would be the same? A. Yes, sir.

Q. But the items are not the same?

A. On this I notice this \$20.00, that is the only place.

Q. They are not the same, there is 4 or 5 items in one of these accounts set out in detail which is put in the other one in the aggregate.

A. That one I notice, the one you called my attention to, the telegrams showing who they were to. This puts in the telegrams by the month. Mr. Smith who made up that statement put them in that way and didn't take the trouble to itemize them.

Q. You don't know which of these accounts the

(Deposition of F. H. L. Cotten.)

books of the Barber Lumber Company were made up from?

A. I think likely from that, but I would not be positive.

Q. Then if it was made up from this one they are not an exact copy of the books of the Northwestern Lumber Company?

A. It might not be as to every word, as to phraseology, but the two statements are alike with the exception you mentioned.

Q. If they made up journal and cash-book from these statements they would not be an identical copy of the journal and cash-book of the Northwestern Lumber Company, would they?

A. I don't know as I understand just what you mean by that.

Q. I will change my question *the* this statement is supposed to cover the items on the journal and cash-book of the Northwestern Lumber Company?

A. Yes, sir.

Q. And the other statement that you have a letter-press copy of is also supposed to be made from those books? A. Yes, sir.

Q. Now, there are a number of items on this statement or the other statement, letter-press statement that are not on here, that is the details of the items?

A. Yes, sir.

Q. Then, if the details are not on here as you stated these books here of the Barber Lumber Company are made up from those statements, then it is not an exact copy of the journal and cash-book of the

(Deposition of F. H. L. Cotten.)

Northwestern Lumber Company, is that correct?

A. I would have to look at that entry in the cash-book to see if that is entered this way or in detail. We kept a memorandum by the month of telegrams and we could have itemized it in detail. He might have asked me; I don't know whether he did or not, to itemize it.

Q. We will put it this way, there are items charged to Barber and Moon or the Barber Lumber Company in the books of the Northwestern Lumber Company covering their transactions down to May 20-04, which are not in the books here?

A. Why I don't think so, except it may not say there were so many telegrams to Mr. Moon or Mr. Barber, but the expense for these telegrams was in these books.

Q. In other words the money items are correct.

A. Yes, sir.

Q. But the details from which these money items are made up in the office of the Northwestern Lumber Company are not in the books of the Barber Lumber Company?

A. I will not say that until I looked at that, examined that.

Q. Will you look and see, Mr. Cotten; are these books here made up from the statement you made in your evidence?

A. Either this or the other one; this looks as if it was the one; it is checked here by me. I said the books were made up under my direction.

Q. Did you compare these books with the books

(Deposition of F. H. L. Cotten.)

of the Northwestern Lumber Company yourself?

A. No, sir; I didn't.

Q. Then you don't know whether they are a correct account of the Northwestern Lumber Company and the Barber Lumber Company, or not?

A. Same way as we know lots of things around the office. There are hundreds of things I can't examine, details of running the office, but I am satisfied they are correct.

(By Mr. BUNDY.)

Q. Your statements rendered back and forth between the Northwestern Lumber Company and the Barber Lumber Company would detect mistakes in the business; by that way you would detect any discrepancy?

A. Yes, sir.

(By Mr. GORDON.)

Q. Now, these three copies are in evidence, are they?

By Mr. BUNDY.—Yes, sir, they are all in evidence.

By Mr. COTTEN.—Here is this item, "Telegraph to December, \$20.50," you see in this one they are mostly itemized (showing account to Mr. Gordon), I don't think there are many there but that are itemized and the others we have the items for.

(By Mr. GORDON.)

Q. Mr. Cotten, then this item of December 31, 1903, in the expense account of the ledger of the Barber Lumber Company as \$20.50 and appearing in the cash-book of the Barber Lumber Company, is a cash item for telegrams in the office books and memo-

(Deposition of F. H. L. Cotten.)

random of the Northwestern Lumber Company; shows in detail what these items are for?

A. Yes, sir; they are one and the same thing.

By Mr. BUNDY.—Mr. Gordon, do you want a detailed list of the telegrams; if you want them, you can have them.

By Mr. GORDON.—I want as much information from the books as I can get, Mr. Bundy; I want as much information from the books as I can get.

By Mr. BUNDY.—You were up there this morning.

By Mr. GORDON.—I don't remember every item; what I wanted to see was if they were the same as this here.

By Mr. COTTEN.—I think it is in detail with the possible exception—

(By Mr. BUNDY.)

Q. The Northwestern Lumber Company sent and received telegrams and they are charged for them by the western office?

A. No, sir; we pay for them when each message is sent, when Mr. Barber or Mr. Moon sent a telegram, and then we charged it direct to the Barber Lumber Company; but our practice is to keep a memorandum in the cash drawer with all telegrams on for the month, regarding it as cash from time to time, and make one entry at the end of the month instead of from time to time, to save a number of entries during the month.

(By Mr. GORDON.)

Q. In the account or statement No. " of Gov-

(Deposition of F. H. L. Cotten.)

ernor Steunenberg—

By Mr. BUNDY.—Number 2; there is no such statement.

By Mr. GORDON.—The second statement then;

Q. In the statement of Governor Steunenberg number 280, dated July 7, 1903, I find at the end of that in blue pencil a notation, “See \$100.00, canceled on both sides”; Mr. Cotten, who wrote that at the bottom of that statement? A. I did.

Q. And what does that mean? I think he explained to me there was something in the account that was refunded and was dropped out of the account.

Now, what purports to be a statement of Frank Steunenberg number 280½, which you testified concerning yesterday, I understood you to say that that was dictated at the office of the Northwestern Lumber Company by Mr. Steunenberg to one of the stenographers of the company?

A. Certain portions of it was, yes, sir.

Q. Which portions of it?

A. Typewritten in blue ink.

By Mr. BUNDY.—All except the first three pages.
(By Mr. GORDON.)

Q. And I notice there is no signature to that; did Governor Steunenberg assign any reason for not signing?

A. I don't know that there was anything said about it.

Q. I notice a date at the bottom of it, “July 1st, 1904. By Balance,” on the page next to the last page and the page preceding that; in whose hand-

(Deposition of F. H. L. Cotten.)

writing is that?

A. That is my handwriting.

Q. And the footings in ink are in whose handwriting?

A. Mine. That one hundred dollar mistake was discovered when we wrote it up on the books. It didn't prove and we went over it again and found that one hundred dollars there was error, in the account; that change was made after he had gone away.

Q. Is all the writing on this report, except that in blue typewriting in your handwriting?

A. Do you mean on all parts of it?

By Mr. BUNDY.—You might eliminate these first three pages.

By Mr. GORDON.—I said in blue typewriting; that would eliminate that.

A. Yes, with the possible exception of that correction there of \$100.00 which the \$481.90 is stricken out and \$581.90 written over it. That may be mine, but I hardly think it, but all the others are in my handwriting.

Q. In your handwriting? A. Yes, sir.

Q. And the notations that you have made on here or the writing you have put on there was just to designate to the bookkeeper the place in the various books where it should be charged. A. Yes.

Q. Steunenbergs didn't have anything to do with that?

A. If an entry didn't explain itself, I may have asked him questions about it or something of that kind.

(Deposition of F. H. L. Cotten.)

Q. Do you remember any of those notations that you did ask him about other than that you explained yesterday?

A. No, sir; not in particular, but I would naturally inquire what they were so as to make the proper entries.

Q. Now, when Mr. Steunenbergh dictated this account in your office, did he dictate it from notes of any kind he had?

A. He had a statement or statements already prepared.

Q. That he brought here with him?

A. Yes, sir.

Q. Do you remember or not whether they were signed by him?

A. I think they were, but I would not be positive about that.

Q. Do you know where those accounts are now or statement is now?

A. My impression is that after we had checked over the paper and had this done, he destroyed them.

Q. You could not say whether he did or not?

A. I couldn't say positively.

(By Mr. BUNDY.)

Q. Did he leave them with you at your office?

A. He didn't.

By Mr. GORDON.—That is all for the present, Mr. Cotton.

By Mr. BUNDY.—I want to ask Mr. Barber one question.

**[Deposition of James T. Barber on Behalf of the
Defendants (Recalled).]**

JAMES T. BARBER, recalled as a witness, testified as follows:

(By Mr. BUNDY.)

Q. Mr. Barber, I find a charge made against Frank Steunenberg on the ledger of the company, "May 27, 1903. To cash, \$17,500.00," and reference made to page 5 of the cash-book where it is itemized in two items, "April 11, 1903, To your draft on us, \$10,000.00." That has all been explained and the other item, "May 13, 1903, To your draft on us, \$7,500.00." Now, I call your attention to letter taken from the files of the company No. 219, and ask you if by reference to that letter, you can tell what that \$7,500.00 was drawn upon you for?

A. Yes, sir.

Q. State what, if you please.

A. It was to make payment on the Perrault Mill-site option.

Q. Now, I notice, Mr. Barber that Mr. Steunenberg is charged under date of November 30, 1903, with cash, \$14,500.00 on the ledger and refers to cash-book, page 7, and shows the following items: Frank Steunenberg, debtor, September 29th, To your draft on us, \$1500 00; that you have explained too; the next two items, October 16, 1903, To your draft on us, \$3000.00; October 16, 1903, To your draft on us, \$10,000.00. Now, I show you letter marked 281, taken from the files of the company, and ask you if

(Deposition of James T. Barber.)

that is a letter you received from Governor Steunenberg at or about that time? A. Yes, sir.

Q. And it refers to the two drafts last spoken of, \$10,000.00 and \$3000.00? A. Yes, sir.

By Mr. BUNDY.—We offer it in evidence.

“Caldwell, Idaho, October 9, 1903.

S. G. Moon, Secretary,

Eau Claire.

Dear Sir: Am drawing on you today for \$13000.00 separate drafts, of which \$10,000.00 is needed to take up Crooked River titles, and \$3000.00 for Basin titles.

FRANK STEUNENBERG.”

Examination adjourned to May 15th, 1909, at nine o'clock in the forenoon, at this office.

May 15, 1909, nine o'clock A. M. Examination resumed.

The following stipulation was entered into by and between Payton Gordon, Esq., on the part of the complainant, and C. T. Bundy, Esq., on the part of the defendants:

The attorneys for the Government requiring additional time for inspection and examination of the correspondence and books of account of the defendant Barber Lumber Company, and the time limited by order of court for the defendant to complete its evidence having expired by limitation on this date, and counsel for the Government not having completed their cross-examination of the witnesses offered on the part of the said defendant.

IT IS HEREBY STIPULATED, that the time for the defendants to complete taking their evidence

be extended to and include the eighteenth day of May, 1909.

AND IT IS FURTHER STIPULATED, that an order be made herein by consent extending such time; it being further understood that this stipulation shall not extend the time for complainant to take their evidence in rebuttal.

By consent of the parties hereto by their respective attorneys this examination is adjourned to May 17th, 1909, at nine o'clock in the forenoon, at this office.

May 17, 1909, nine o'clock A. M., examination resumed, and by consent of the parties by the respective attorneys, the examination was continued to and adjourned to two o'clock P. M., at this office.

May 17th, 1909, two o'clock P. M., examination resumed.

[Deposition of S. G. Moon, on Behalf of the Defendants (Recalled).]

S. G. MOON, recalled as a witness, testified as follows:

(By Mr. BUNDY.)

Q. Mr. Moon, I show you a letter taken from the files of the company, No. 290, is that a letter received by you as secretary of the company on or about its date? A. Yes, sir.

By Mr. BUNDY.—I offer that in evidence.

“Boise, December 4, 1903.

S. G. Moon, Sec. Barber Lumber Co.

Eau Claire, Wisconsin.

Dear Sir: Herewith letter from Assessor Kotenai

(Deposition of S. G. Moon.)

county that disposes of tax matters. Matters here about as usual.

Final proofs are now being made on 6-4 entries, and I will probably wire you for funds to meet purchases soon.

We have taken possession of the Casten ranch and Hosely has some man living there. He is also cutting the timber.

Very truly,

FRANK STEUNENBERG."

By Mr. BUNDY.—That is all.

[Deposition of James T. Barber, on Behalf of the Defendants (Recalled—Cross-examination).]

JAMES T. BARBER, recalled for cross-examination, testified as follows:

(By Mr. GORDON.)

Q. Mr. Barber, sometime prior to your meeting Governor Steunenberg there had been some correspondence passed between you and Mr. Palmer with reference to Mr. Palmer interesting you in some lands in Idaho, was there not?

A. We had, either had some correspondence or talked with Mr. Palmer with reference to that, not specially as I remember it, to Idaho, but to any timber proposition that might come up in that section of the country.

Q. You had never met Governor Steunenberg until he came here at the instance of Mr. Palmer, had you?

A. No, sir.

Q. You knew of Frank Steunenberg by reputation, however, did you not?

(Deposition of James T. Barber.)

A. I have no recollection of having heard of him. He was generally known with reference to his action in regard to the Coeur d'Alene strike previous to that time when he was governor, but I have no recollection of reading about him in particular.

Q. You knew he had been governor of Idaho?

A. Yes, I think so, and that the first letter we received from Mr. Palmer about the Idaho proposition stated that he had been governor. I knew he had been governor very early in the proceedings, in the transactions.

Q. Did Mr. Palmer send you a report of some lands that he desired you to consider with a view to buying before Governor Steunenberg came to Eau Claire?

A. I have no recollection of having seen such a report.

Q. Do you remember a letter that was read in evidence here by counsel for the Barber Lumber Company in which Mr. Palmer in writing to you, he said he enclosed a report, I don't know as that is the exact expression, concerning the Steunenberg scheme or proposition?

A. I remember the letter, yes, sir.

Q. You have no recollection whether that report came along with the letter?

A. No, sir, I have no recollection of having seen it.

Q. When Governor Steunenberg arrived in Eau Claire, and you met him, where did you meet him and with whom did you meet him?

(Deposition of James T. Barber.)

A. I met him, I think, in the North Western Lumber Company's office; whether Mr. Moon was there when he came in or joined us soon after, I can't say. We were there together.

Q. The three of you were together when you first met Governor Steunenberg?

A. That is my recollection of it.

Q. Will you state what Governor Steunenberg's proposition was at that time?

A. He stated that a man by the name of Sweet had been investigating some timber in the Boise river country and had purchased some claims; that Sweet *could not* or would not finance the thing any further and was willing to sell out. Told us quite a little of the situation and asked us if we would be willing to buy Sweet out and purchase a lot more of the timber.

Q. Do you remember how many claims he said he was interested in at that time?

Q. No, sir; it was some five or six thousand acres; I couldn't tell you definitely.

Q. And they were all the claims that he and Sweet were interested in at that time?

A. I don't know about what they were interested in.

Q. I mean from his statement?

A. He told me nothing more about any claims he and Sweet were interested in.

Q. How did he say he and Sweet were interested in these claims?

A. Why, he said he and Sweet had been buying

(Deposition of James T. Barber.)

some claims from timber and stone entrymen and that they amounted in the aggregate to about five thousand acres; something like five thousand acres.

By Mr. BUNDY.—Sixty-four hundred acres is the report made.

A. Five or six thousand acres; I have forgotten how much it was now.

Q. Did he want to sell these claims outright to you? A. No, sir.

Q. Well, what did he want?

Q. Well, he wanted us to buy out Sweet's interest in these claims and include the cost of cruising, estimating and investigation, and furnish money enough to buy quite a number of other claims which had been filed upon, and which he was confident he could buy; and also, furnish money to buy scrip to take up a body of timber which he represented to be about twenty-five thousand acres.

Q. Did he tell you the number of claims that had been filed upon at that time?

A. He thought he could control; he didn't fix this; if he did, I don't remember.

Q. It was at his suggestion that he could get about twenty-five thousand acres, was it?

A. Yes, sir.

Q. Did he represent that this twenty-five thousand acres were contiguous tracts or composed of contiguous tracts?

A. He represented that they were in one general territory. I do not think there was anything said about their being continuous tracts.

(Deposition of James T. Barber.)

(By Mr. BUNDY.)

Q. What territory? A. Boise Basin.

Q. Was it not necessary that the several tracts should be contiguous before it would be of any real value to you or any other person dealing in lumber?

A. No, sir. The Boise Basin, I think, so called, consisted of the valleys of some three different considerable creeks or rivers, Moores creek, Grimes creek and Granite creek; and these creeks were frequently divided by extensive tracts of land which carried no timber, but were called the Boise Basin as a general distinction, perhaps.

Q. And these tracts that you and Mr. Steunenberg were considering were adjacent to what one of these creeks?

A. All three of them, I think.

Q. What date was it that Governor Steunenberg arrived here, as near as you can remember?

A. I have a very poor head for dates; it was early in March.

Q. 1902? A. 1902.

Q. Do you remember how long he remained here on that occasion?

A. I think he was here two days.

Q. And then you entered into a contract with him, that is in evidence?

A. Not at that time, no, sir.

Q. Well, did you come to a definite understanding with Mr. Steunenberg on his first visit here?

A. No, sir.

Q. Well, what was left open?

(Deposition of James T. Barber.)

A. I might possibly say it was a general understanding, but my recollection is that he went to Chicago to get in communication with Mr. Sweet with reference to some of the matters unsettled; just what they were, I don't know.

Q. Then did he return here?

A. Yes, sir, he returned here.

Q. And I notice that the contract is dated March 12, 1902; was Mr. Steunenberg here at that time?

A. Yes, sir.

Q. And did all of you sign the contract then?

A. My recollection is that Mr. Moon and I signed it at that time; that Mr. Steunenberg didn't; I am not certain about that; possibly he did, but I don't think so.

Q. Was there any reason for him not signing at that time if you and Mr. Moon were ready to enter into the contract?

A. Whether the contract was effective or not depended entirely upon what Mr. Palmer found out with reference to his representations, and the contract was not to go into effect until Mr. Palmer had time to investigate the representations of Mr. Steunenberg.

Q. And they were reported favorably eventually?

A. Later on.

Q. And do I understand from the evidence that is in that that contract was sent to Mr. Palmer after you and Mr. Moon signed it?

A. I think it was. You will remember that the evidence shows that I left here on the night of the

(Deposition of James T. Barber.)

12th, going away on a vacation. What transpired immediately following I simply know by report.

Q. And about a month later on, or sometime in the early part of April, Mr. Palmer in a letter returned that contract; do you remember that?

A. Only by report, I was not here at the time.

Q. That was returned to Mr. Moon, was it? I gathered from some of the other testimony, I believe, of Mr. Barber or Mr. Moon, that that contract was lost or misplaced and that Mr. Palmer in a subsequent letter said he would send another contract or inclose another contract; do you have any recollection of that transaction?

A. The contract was lost, misplaced or mislaid, and Palmer secured another one; I could not tell you when it was done, but I remember that was the situation.

Q. Well, do you know whether the contract that is in evidence now is the contract that was signed first or is it the second contract that Palmer sent?

A. I don't know.

Q. You don't know whether it is the first contract or the second contract?

A. I don't know.

(By Mr. BUNDY.)

Q. You didn't understand Mr. Gordon very well; it is the same contract.

A. It is the same contract, surely; I don't know whether it is the same document or same paper, but it is the same contract. My recollection is that the one that was lost turned up and we had all three of them. We had the one that was lost. Whether that

(Deposition of James T. Barber.)

was a copy that Palmer made or the original, I am unable to tell.

(By Mr. BUNDY.)

Q. They were identical; the same contract?

A. Yes.

(By Mr. GORDON.)

Q. And all were signed by Steunenberg?

A. All signed by Steunenberg.

Q. All bore the same date?

A. All bore the same date.

Q. This twenty-five thousand acres that Steunenberg was to secure was that to be secured by purchase from the various persons that he could purchase it from?

A. I think I said that he represented to us that he and Mr. Sweet had secured the title to five or six thousand acres; that there were several other timber and stone entries he was confident he could purchase. The plan was then to purchase scrip sufficient to take (lieu land scrip) sufficient to take the remainder of the twenty-five thousand acres.

Q. Do you remember when the first scrip was purchased?

A. I can't give the date; I think it is in evidence here. All of the scrip we ever bought is in evidence.

Q. On that first visit with Mr. Steunenberg what was said about forming a company; was that his proposition or was it the proposition advanced by you and Mr. Moon?

A. My recollection is that Mr. Steunenberg desired to be identified with the development and sug-

(Deposition of James T. Barber.)

gested that he wanted to retain or buy an interest in the company which could be formed later on for the purpose of developing the investment.

Q. Do you remember how long after Mr. Steunenberg's visit the company was formed?

A. Why, it was during that summer sometime; it is in evidence and of record; I can't remember the date.

By Mr. BUNDY.—It was organized July 9, 1902.
(By Mr. GORDON.)

Q. And that company was formed for the purpose of taking over the holdings of you and Mr. Moon and Steunenberg in Idaho?

A. The company was formed for the purpose of developing this investment. Mr. Moon and I sold out our interest in it. Mr. Steunenberg was permitted to subscribe for his agreed share of the stock.

Q. I didn't understand that.

A. Mr. Moon and I sold out to the company, transferred the contract and Mr. Steunenberg took his share in stock, and when the company was first formed, it was incorporated for one hundred fifty thousand dollars.

Q. About how many shares of stock were there then?

A. One hundred dollars a share, that was fifteen hundred shares.

Q. And who organized the company; who were the persons who organized the company; who were the incorporators?

A. The records will show; I will have to refresh

(Deposition of James T. Barber.)

my recollection with the records. S. G. Moon, C. W. Lockwood and myself.

Q. And was the stock all taken at that time?

A. It was all subscribed, I think, at that time. Wait a minute; possibly Steunenberg didn't subscribe for his until later.

Q. How much stock did you subscribe to when the company was first formed?

A. Four hundred seventy-five shares.

Q. And how much did Mr. Moon subscribe to?

A. Three hundred forty-five shares.

Q. And Mr. Steunenberg?

A. We subscribed, Mr. Moon and myself or Mr. Lockwood and myself, subscribed for the Steunenberg stock and ordered it issued when the subscription was paid by Mr. Steunenberg.

Q. When the company was first organized, did you and Mr. Moon and Mr. Lockwood and Mr. Steunenberg subscribe for all the stock?

A. The original stock subscriptions for the first one hundred fifty thousand dollars of stock is, J. T. Barber, 475 shares; C. W. Lockwood, 549 shares; William Carson, 1 share; C. D. Moon, 130 shares; S. G. Moon, 345 shares; that makes one hundred fifty thousand dollars.

Q. Mr. Barber, the evidence shows that at the time that Governor Steunenberg was purchasing claims in the Boise Basin, that the Payette Lumber Company were also purchasing timber in the same locality; is that correct?

A. I didn't know that the evidence showed that;

(Deposition of James T. Barber.)

that is your question I don't remember there was any evidence to that effect.

Q. The reason I say the evidence, I had read some letters here, I had forgotten whether they were read into the record as having been written to you, or whether I had seen them myself; what I want to ask you is, was there any agreement or arrangement between you and the representatives of the Payette Lumber Company that you would not purchase any claims in a certain locality in consideration of the fact that they would not purchase any in a certain locality? A. Not with me; no, sir.

Q. Do you know of any arrangement being made between yourself and Mr. Moon and Governor Steunenberg and Mr. Carson several years after this, after the Payette Lumber Company was organized which was several years after this transaction took place, in which you had some talk with some of the officers of the Payette Lumber Company in which it was stated it was hardly fair to purchase land in "our" territory and that members of the Barber Lumber Company would not purchase timber in their territory?

A. The Payette Lumber Company was not organized until several years after all these transactions.

Q. Mr. Barber, when did you first go to Idaho?

A. It was one of the last days of August or the first of September, 1902.

Q. And whom did you meet there then with reference to purchasing timber lands?

(Deposition of James T. Barber.)

A. I don't remember having met anybody with reference to the purchase of timber lands in the Boise Basin, except Governor Steunenberg.

Q. On any of your visits to Idaho did you meet Mr. John Kincaid? A. Yes, sir.

Q. Do you remember which trip it was there that you first met him?

A. No, sir; it may have been on that trip; I never met him but once.

Q. Do you remember when you met him and who you were with when you met him?

A. My recollection is that it was in the rotunda of the Idan-ha Hotel; I think Mr. Steunenberg introduced him to me; whether Mr. Carson was present or not, I do not know; I don't know whether he was present or not.

Q. That was the only time you ever met him?

A. That was all.

Q. Did you ever have any business with him?

A. None whatever.

Q. Just met him?

A. Just introduced; that was all.

Q. Do you remember the last time or the date of your last visit to Idaho?

A. I will have to refresh my memory with memorandum I have here. I seem to have been there from December 8th to 12th, 1906.

Q. Do you, sometime in the spring or summer of 1902, know that Mr. Moon went to Idaho, to Boise, and about the same time Dennis Thornton and Mr. Connors went; have you any recollection of them go-

(Deposition of James T. Barber.)

ing?

A. I know that they all three went, and that Mr. Moon went in the summer of 1902; whether Mr. Connors or Mr. Thornton went with him on that first trip, I don't know.

Q. Not with him but about the same time; if you want that information given as the answer, Mr. Thornton went out about April 1st and Mr. Connors behind Mr. Moon in June.

Q. Do you know when Mr. Thornton was sent to Idaho the first time?

A. No, sir; it seems to me that he went there in April and I was not here at the time.

Mr. Barber, I find on page 44 of the letter-press copy-book of the Barber Lumber Company, a letter dated December 26, 1902, addressed to Mr. William Carson, Burlington, Iowa. The bottom of pages 44 and 45 are torn off about one-third way up the page and I will read the letter and ask you if from the context you can remember what was in the part of the letter that is missing. I show you the letter and ask you if the signature "James T. Barber" is a copy of your signature to the original letter?

A. Yes, sir.

Q. The letter begins: "My dear Mr. Carson: Governor Steunenberg reported here yesterday and I am sorry to say that while he received my wire asking him not to come east until he had obtained options on the millsite, he didn't receive my letter giving full instructions what we wanted and how to do it.

(Deposition of James T. Barber.)

My telegram was somewhat obscure in wording and he misunderstood it and came on without securing the option. He says there is no stir or excitement around Boise and that he will have no difficulty in getting all we want on his return.

He has no explanation to make for the foolish actions of the Scofield people that have, together with Secretary Froelich of Madison, and rich brewer of Milwaukee, whose name he has forgotten, have a good gold proposition on Fall Creek, a tributary of the south fork of the Boise River, and in that vicinity along that creek is a small tract of very fine timber, and they have six or eight," and the rest of that line is torn out and the next line reads: "There are unsurveyed government lands," and the rest of that line is torn and that the next line at the end of the paragraph is "Menacing," "he reports, however," and the rest of the page is torn; and beginning at the top of page 55; I said rest of the page is torn, but rest of the page is missing. At top of page 45 "55¢ per thousand. I have instructed Steunenberg to buy these claims at not more than the above figures, no money to be paid until land office receipt's final receipts are shown and we have had a full opportunity to prove the correctness of Down's estimates by our estimating. Steunenberg is confident he can buy these at possibly \$950.00 per claim or 52¢ per thousand. Does this meet your approval? I also hand you report of estimator employed by the Governor to work on North Fork which explains itself. We have prepared a little map showing location of lands

(Deposition of James T. Barber.)

already secured by," and then there is a place torn out of the letter; and the word "entries, etc., and have shown where the remaining timber on this river is located as reported by Downs. His report shows 314 million tributary to the north fork outside of the basin and is undoubtedly way inside the actual conditions. Steunenberg says that Downs insists that this timber is superior to that in the basin. Downs also insists that there is no timber of value tributary to the south fork except that on Fall Creek where the Scofields are operating, but what there is there will run a million to the forty and is probably the finest," and the rest of that line is torn off, and the next line "in the State of Idaho." "There has been a bill in," and the rest of that line is torn off, and the next line begins "Quarrels to repeal," and the rest of the page is missing. Beginning on page 46, "To take rather precipitate action in this matter. We are now wiring to secure a good estimator to check up Downs. I have written Quarrels if it is his intention to push this bill through this session. If it is should we not buy a little scrip if we can find it at a reasonable price; we will have our six thousand acres in time and we will not use any of it in the Basin awaiting further developments at Washington. I have given Steunenberg instructions to hold up all matters in the Basin at present and devote his entire time and energy to securing what timber there may be tributary to the north fork along the lines herein set forth. If these reports are anywhere near true and we can secure one hundred and fifty

(Deposition of James T. Barber.)

millions on the north fork now filed upon at less than 60¢ per thousand, with the prospect of a hundred and fifty million more together with the mill site on the river, we will be pretty well fixed after all. Please return enclosures at your convenience.

With the compliments of the season etc.

Very truly yours,

JAMES T. BARBER, President."

Q. Mr. Barber, do you remember that letter?

A. Why, indistinctly; yes. I wrote it.

By Mr. BUNDY.—That was about December, 1902? A. December 26th.

By Mr. BUNDY.—After he had been here with Taylor's report?

A. Of course, this whole first part of the business refers to the Crooked River situation. The Crooked river is variously referred to as the property on the north fork of the Crooked river country, but some of the correspondence calls it the Kinkaid tract. This must have been Taylor's report that I referred to as having sent to him. The last part of this page refers, page 45, refers to a bill introduced by Senator Quarrels of the United States Senate and repeal the Timber and Stone Act, I think it is. I think that is the lieu land scrip bill, and I wrote Senator Quarrels if it was his intention to push it.

Q. The first part of the letter there in which you say he left without attending to the options.

A. That was with reference to the millsite. The references there to Scofield have already been brought out. Scofield together with Secretary Froe-

(Deposition of James T. Barber.)

lich and some other parties were making a great talk in the newspapers with reference to their lumbering operations at Boise. They were considered rather menacing to our interests there at one time.

By Mr. BUNDY.—There is a reference in there that you might explain, referred to two or three times as Downs' report as to the timber.

A. I don't remember how we got Downs' estimates on that land unless it was though the purchase of the timber and stone claims.

By Mr. BUNDY.—There is some other correspondence that brings that out; when Steunenberg came here with Taylor's report the first time, he was urging you to buy the timber and stone claims which Downs had located.

A. I remember that part of it, but I speak here of Downs' estimates. We didn't employ Downs to estimate. We must have got these estimates, then we had no estimates, no definite estimates; Downs' estimates must have reference to statements made by Steunenberg as to the quantities of timber on the land and we had previously to this letter instructed Steunenberg to secure an estimator to go on and see whether these representations were true or not.

Q. Representation of Downs?

A. Representations Steunenberg told us Downs had made with reference to the quantity on the land; that he had secured Taylor and that Taylor said practically all the land was entered by timber and stone claims; and that Taylor went up again and reported. All of it is in evidence.

(Deposition of James T. Barber.)

(By Mr. GORDON.)

Q. And these lands you refer to in your letter as having instructed Steunenberg to purchase at the above figures at 55¢ per thousand, referred to unsurveyed lands?

A. They referred to the Crooked river entries.

Q. This tract referred to "Of very fine timber. They have six or eight," and then the page is torn. Six or eight what?

A. I will tell you just exactly what that means. Through the instrumentality or influence of some Wisconsin parties six or eight entrymen or six or eight men and families went out and located on Fall Creek. This is on information and belief I don't know anything about it. There was a little land that could be irrigated along the sides of the stream and which several of these people took up as a homestead and a timber and stone claim on Fall Creek. It was generally supposed that they were there for the purpose of selling out eventually to the Scofield people and we were quite interested to know just what the situation was over there and made some investigation and dropped the whole matter and never bought any of the claims. We never had anything to do with any of the settlers. They are there so far as we know; that timber on Fall Creek is in the hands of the Government so far as we know.

Q. This sentence that follows: I have instructed Steunenberg to buy these claims at not more than the above figures," does that refer to these six or eight claims?

(Deposition of James T. Barber.)

A. To the Crooked river claims. I testified in my evidence that I had instructed Steunenberg to purchase these claims when Taylor found out they had been entered under the Stone and Timber Act.

Q. Now, as to the second paragraph of page 45, "I also hand you the report of an estimator employed by the Governor to work on north fork which explains itself"; was that the report of Taylor?

A. Yes, report of Taylor's.

Q. Have you that report here? A. No.

Q. Do you know where it is? A. No.

By Mr. BUNDY.—It is on file here.

(By Mr. GORDON.)

Q. In the next sentence on page 45: "We have prepared a little map showing location of lands already secured by"; then there is a place torn out. "Entries, etc., and have shown where the remaining timber on this river is located, as reported by Downs"; do you remember what entries are referred to, that missing part?

A. No, sir, I have no recollection of the map at all.

Q. I refer to a letter on page 51 of the Barber Lumber Company copy-book, of date, January 3, 1903, addressed to Frank Steunenberg, signed, James T. Barber, and ask you if that is a copy of a letter you sent to Governor Steunenberg?

A. Yes, sir.

Q. The first paragraph reads: "We are much interested in learning what action you have taken in the matter of Kincaid and also and more particu-

(Deposition of James T. Barber.)

larly with reference to securing options on our proposed millsite"; I don't remember whether that letter is already in evidence, and if it is whether you explained what you were referring to about the action of Steunenberg with Kinkaid?

A. I think the letter is in evidence and that the explanation of it is that these Crooked river lands were referred to in the correspondence as the Kinkaid lands and Crooked river lands, indiscriminately. I think it is in evidence that Mr. Steunenberg when he came on reported that the best of the timber on Crooked river had been taken up by entrymen and that these entrymen had either given options or made some agency arrangement with Mr. Kinkaid for the selling of them, and that letter refers to Crooked river lands being negotiated for by Steunenberg with Mr. Kinkaid.

Q. And the second paragraph of the letter reads: "Will you kindly have Taylor or Downs or someone else who is familiar with men who have driven the river from the mouth of Crooked Creek to Boise, get all the detailed information with reference to the difficulties in the way of driving, number of men usually on the drive and the quantity of logs the crew stated can handle"; do you remember whether Governor Steunenberg carrying out your direction in that paragraph ever got a report from Taylor or Downs with reference to the driving possibilities of the Crooked Creek?

A. The Boise river from Crooked Creek down is what it refers to there, to Boise. I think there was

(Deposition of James T. Barber.)

quite a little said in the correspondence which has already gone in evidence on the subject.

Q. Again, I find a letter on page 53 of the copy-book of the Barber Lumber Company, dated, January 7, 1903, addressed to Frank Steunenberg, Knoxville, Iowa, signed, Jas. T. Barber; that is a copy of a letter sent by you to Governor Steunenberg, is it not? A. Yes, sir.

Q. The letter reads: "I have your letter of the 5th from Washington and note fully its contents and am glad you have adjusted matters with the authorities." Mr. Barber, do you know what Governor Steunenberg's business was in Washington with the authorities at that time?

A. My recollection is that he was trying to hurry up the issue of patents for lands which had been held up for some reason we didn't understand.

Q. Mr. Barber, will you endeavor to find that letter referred to by Governor Steunenberg, written from Washington, January 5, 1903, will you?

A. I will try to find it, yes, but I don't know whether I can or not.

Q. I find a letter on page 89 of the Barber Lumber Company's copy-book, dated, March 9, 1903, addressed to Hon. Frank Steunenberg, Boise, Idaho, and signed, "Very truly, J. T. Barber"; is that a copy of a letter that was signed by you and sent to Mr. Steunenberg? A. Yes, sir.

Q. The letter reads: "The bearer, John Anderson, wants to take up a Government timber and stone claim. I think you might help him through; Pat

(Deposition of James T. Barber.)

Downs or someone else, to a good location. John has been in our employ for many years. Yours very truly, Jas. T. Barber." Do you know whether John Anderson ever took up a timber claim?

A. No, sir.

Q. Mr. Barber, on page 99 of the Barber Lumber Company's letter-press book, is a letter signed Jas. T. Barber, Pres., and addressed to Frank Steunenberg, Caldwell, Idaho; is that a copy of a letter you wrote and sent to Governor Steunenberg?

A. Yes, sir.

Q. In the last paragraph of the letter, I find this statement: "As we wrote to you recently, we will not rest at all easily until we absolutely control not less than six hundred millions of timber. We are compelled to leave this important part of the business to you for the present and will urge you to put into it all the energy possible"; do you remember at the time you wrote that letter how many feet of timber you already controlled there? A. No, sir.

Q. Well, did you know how many claims it would take according to your calculations at what the timber was running to the acre there, to aggregate six hundred millions of timber?

A. I can figure it up in a minute if you want to know.

Q. I want to know approximately.

A. About sixty thousand acres at ten thousand to the acre.

Q. Mr. Barber, I find on page 106 of the Barber Lumber Company's letter-press book a letter dated

(Deposition of James T. Barber.)

April 6, 1903, addressed to Hon. Frank Steunenberg, Caldwell, Idaho, signed, Jas. T. Barber, President, that is a letter sent by you to Mr. Steunenberg, is it not? A. Yes, sir.

Q. I notice the letter reads as follows:

“I have your favors of the first and third, but the deeds sent by express not having yet arrived, I find the letter of April 3rd, which refers to 71 deeds”; do you know anything of the letter of April 1st?

A. I have no recollection of it at all.

The second paragraph of the letter reads:

“I note what you say with reference to Kinkaid and see no reason why we should not complete our original arrangement with reference to land in the Boise Basin as we are still a large acreage short on the original deal.” Do you know whether the letter referred to as of the first refers to the reference made to Kinkaid in your letter?

A. I have no recollection of what the letter of the first contained.

Q. On page 133 of the Barber Lumber Company's letter-press book I find a letter written to Hon. Frank Steunenberg, dated May 6, 1903, Boise, Idaho, and signed Jas. T. Barber, and ask you if you wrote that letter? A. Yes.

By Mr. BUNDY.—We will stipulate that all the letters in the book were written and mailed by the party signing the same.

(By Mr. GORDON.)

Q. The letter reads: “The enclosed is from two men who called upon me sometime ago in Boise and

(Deposition of James T. Barber.)

who are anxious to locate on government land. I think their motive is to work for the Barber Lumber Company when operations are commenced. I would suggest that if you can do anything towards helping these men find desirable locations, you drop Mr. Hanson a line as he suggests. Yours very truly, Jas. T. Barber, President."

I assume from the letter that Mr. Hanson was one of the gentlemen referred to in that letter; do you know who the other one was?

A. No, sir.

(By Mr. BUNDY.)

Q. Is that a letter you received from Mr. Hanson? A. Yes, sir.

By Mr. BUNDY.—That is offered in evidence.

"Everett, Washington, June 17, 1903.

Hon. James T. Barber,

Eau Claire, Wis.

Dear Sir: I met Mr. John Anderson today. He came over to find out what your letter contained. He had heard from his brother and he had told him that you had written but I have not received your letter so it must be lost. If you think it is any show to go back to Boise and find a timber claim, please let us know.

Respectfully,

A. HANSON,

2608 Oak Avenue, Everett, Washington."

Q. From that letter does that tell you who the two men were?

A. John Anderson and his brother are old em-

(Deposition of James T. Barber.)

ployees of ours here and they wanted to work for the company and wanted to make some money in entering a stone and timber claim if they could.

Q. I find a letter on page 172, dated June 24, 1903, as follows:

“Mr. A. Hanson, 2608 Oak Avenue,
Everett, Washington.

Dear Sir: Replying to your letter of the 17th would say there is no chance for a person in our force at Boise and there is no more opportunity to make money by taking claims in the timber country in that vicinity than there was when the writer last talked with you. As soon as we open up matters in Boise we will try to take up the question of a steady employment for you.

Yours truly,

JAMES T. BARBER.”

(By Mr. GORDON.)

Q. Looking over the book the other day, I noticed that several of the pages are gone; you know nothing about that?

A. Nothing absolutely.

Q. I notice pages 13 and 14 are missing, of the Barber Lumber Company's letter-press book; you know nothing about that or what they contained?

A. Absolutely nothing; no, sir.

Q. I find on page 202 of the letter-press book of the Barber Lumber Company a letter dated, August 25, 1903, addressed to Hon. Frank Steunenberg, Boise, Idaho, and signed, James T. Barber; in connection with the last sentence or last paragraph of

(Deposition of James T. Barber.)

said letter I find the following language:

"I think I failed to tell Mr. Borah what Mr. Cobb promised with reference to the position of the 'Statesman,' in case the state administration saw fit to dispose of the timber at the present time. Will you kindly repeat what I told you in the matter of him? Let me hear from you promptly."

Do you remember what that statement was, Mr. Barber? A. No, I do not.

Q. Mr. Barber, do you or did you or does the Barber Lumber Company, or did the Barber Lumber Company ever hold any stock in the "Statesman" Newspaper Company? A. No, sir.

Q. Well, that refers to the paper?

A. I understand.

Q. Did you ever hold any of the bonds of that company?

A. No, sir, no financial interest whatever.

Q. Mr. Barber, I show you a letter of October 13, 1902, signed William Carson, addressed to Jas. T. Barver, Eau Claire, and ask you if that is a letter you received from Mr. Carson?

A. Yes, sir.

Q. The letter reads: "I have received yours of the 9th, and also the enclosed copy of your letter to Mr. Steunenbergh and Mr. Steunenbergh's letter written to you. I return Mr. Steunenbergh's letter as requested." Do you know to which letter Mr. Steunenbergh's that refers?

A. Evidently to some letter Mr. Carson. O, that letter is to me; no, I do not.

(Deposition of James T. Barber.)

Q. Of course, there is a letter-press copy of your letter to Steunenberg somewhere?

A. Yes, sir, undoubtedly.

Q. I show you a letter, dated October 18, 1902, addressed to James T. Barber, Eau Claire, Wis., and signed, William Carson, and ask you if that is Mr. Carson's handwriting and you received that letter from him on or about the date, October 23, 1902?

A. Yes, sir.

(By Mr. GORDON.)

"I enclose reports of D. O. Stevenson and Frank Steunenberg, copies of which I made. I will carefully study over the reports and map and in case I have any suggestions to make will communicate with you at once." Do you know what reports that had reference to of Governor Steunenberg bringing of Stevenson in?

A. It was in a report of Stevenson and Steunenberg of the dam on the millsite, Stevenson being the man who did that work.

Q. I will ask you now, Mr. Barber, if the letter-press book, letter-press copy-book of the North Western Lumber Company, and the letter-press copy-book of the Barber Lumber Company here, and the files in the file case that have been brought here by the Barber Lumber Company, contain all letters written by you personally or on behalf of the Barber Lumber Company to any person or persons or corporation with regard to any transactions concerning the acquisition of the timber lands of the Barber Lumber Company in Idaho?

(Deposition of James T. Barber.)

A. Why, they do practically all; there may have been some letters written in Chicago or somewhere else, no copies of which were taken; there may have been letters written on Sunday in our office, no copies of which were taken, but in the general routine of business the letters were copied in these books and placed on the files.

Q. I notice the last letter copied in the Barber Lumber Company's copy-book is in April, 1907, I think, I will ask you it from that time on all copies of letters that have been made are in the files that are here?

A. They are all there as far as I know.

By Mr. BUNDY.—Just explain *that the system in changed now*.

A. About the date mentioned, our system of copying letters was changed and carbon copies of letters were written by us and retained and attached to the correspondence, to the letters to which they were an answer.

(By Mr. GORDON.)

Q. Are all the letters that you have ever received personally or letters addressed to you as president of the Barber Lumber Company or letters addressed to the Barber Lumber Company, having to do with your transactions there in acquiring timber lands in Idaho, or concerning your holdings there in any way, in the files of the Company that you have brought to this office?

A. So far as I know; there may be slight cases where letters have been received and failed to get

(Deposition of James T. Barber.)

into the files by being carried in back to show somebody else or lost and not returned.

Q. All the letters that you know of that have been received are in these files? A. Yes, sir.

Q. Mr. Barber, this last letter that I read to you with reference to these reports which I interrogated you about, I notice a statement on that which reads: "Answered, October 27, 1902"; in looking through the letter files of the Barber Lumber Company of that date, I do not find a letter addressed to Mr. Carson, October 27, 1902; might that have been one of the letters that you failed to copy?

A. October 27th, of course, there was sometimes that they would go into the Northwestern book.

Q. Mr. Barber, do you know whether Mr. Carson ever went to Washington with a view to seeing the officials to get the titles held up under suspension through?

A. I don't remember now that he did; it is possible that he did.

Q. Do you know if he ever went there with reference to having patents issued?

A. I don't remember of his ever having gone to Washington. He may have been there with reference to the titles in question.

Q. I show you a letter dated February 18, 1903, addressed to Mr. James T. Barber, Eau Claire, Wis., signed William Carson, and ask you if you received that letter from Mr. William Carson at the date of the receiving stamp, February 20, 1903?

A. Yes, sir.

(Deposition of James T. Barber.)

Q. I notice the third paragraph reads: "I enclose a clipping from the New York Commercial relating to the Quarrels bill. If the Timber and Stone Act is repealed and substitute is passed that land can be sold in one hundred sixty acre lots at four dollars per acre, you might be able to get along even if the Timber and Stone Act is repealed"; did you know or discuss with Mr. Carson what he meant by being able to get along even if the act was repealed?

A. I don't remember of having any discussion with him on the subject.

Q. Continuing, the letter reads: "Secretary Wilson and also the president of the agricultural department"; I suppose he means there Secretary Wilson of the Agricultural Department, and also the president?

A. I don't know.

Q. "Secretary Wilson and also the president of the agricultural department, I understand, are very much interested in the question of re-forestering the country. If the Timber and Stone Act is repealed, through Secretary Wilson, we might get control of the government land in the Boise Basin at four dollars per acre by convincing the president that a large company would be interested in logging in such a way that pine would reproduce itself, while if a large number of smaller interests were working along the Boise river, the logging would be done in such a way that all hopes of reproducing the timber would be lost, and think we could make a good argument on this subject and prove up our case. Secretary Wilson is much interested in the subject, and

(Deposition of James T. Barber.)

being Iowa people and I am acquainted with him, we certainly could get a hearing." You don't remember of ever talking with him on this subject, do you, Mr. Carson?

A. Not definitely. Does that need any explanation? That seems plain enough about the forestry business.

Q. I find a letter in the Barber Lumber Company's letter-book, on page 5, dated July 29, 02, addressed to Mr. William Carson, Burlington, Iowa, signed Jas. T. Barber, and reads as follows: "I have a rather unsatisfactory letter from McCartney giving lots of advice about the business plans and methods, but saying nothing about our legal possibilities and limitations. I will try and see him in a few days and he will probably tell more than he will write. The more we learn out there the greater the importance of the decision as to the methods of operation of the financial department by us seems to me. I would like to make arrangements with you to the effect that we all meet at Boise as soon after your return from the east as you can arrange it.

I think we should discuss the important matter with more than Jack and I will be ready to go any time after August 15. What do you say to this?

Yours very truly,

J. T. BARBER."

By Mr. BUNDY.—What is the date of that?

By Mr. GORDON.—July 29, 1902.

Q. Mr. Barber, do you know what that had reference to?

(Deposition of James T. Barber.)

A. Only in a general way. I thought it was advisable to discuss the scope of the operations of the company; what we were going to do as to going into timber lands; building sawmills over there at Boise, etc.

By Mr. BUNDY.—Was that the time you were to decide upon the plan of it? A. I think so.

By Mr. MOON.—I remember that Mr. Barber wanted some advice, something about titles on final receipts or something of that sort, but the nature of it was legal advice and it made Mr. Barber a little bit tired and he complained of it to Carson.

(By Mr. GORDON.)

Q. Do you know whether you have that letter to McCartney or not?

A. It ought to be in the files. I don't know whether it is or not.

By Mr. BUNDY.—That is probably the letter Mr. Barber (showing witness letter).

A. I couldn't say whether that is the letter or not. I have no recollection now.

Q. The pages 13 and 14 of the Barber Lumber Company's letter press book that I have referred to as having been written, but missing, I find that from page 15 of the same book it would indicate that a letter to Mr. McCartney was begun on page 14 of that book as the top of page 15 is Mr. A. E. McCartney too. That does not refresh your recollection at all, does it?

By Mr. BUNDY.—Make a memorandum of that Gordon and you can get it from there; what date is

(Deposition of James T. Barber.)

that?

By Mr. GORDON.—August 14, 1902, is the letter before.

By Mr. BUNDY.—When we go to St. Paul we will have McCartney get that letter; he will have it.

Q. I show you letter dated October 27, 1903; Burlington, Iowa; addressed to Mr. Jas. T. Barber, Eau Claire, Wisconsin; signed, William Carson; and ask you if that is a letter you received from William Carson on the date? A. Yes, sir.

Q. Of the receiving stamp, October 29, 1903?

A. Yes, sir.

Q. Reads as follows:

“From reading the newspapers I judge the excitement in regard to fraudulent land entries in the west is increasing all the time and I suppose this will have the effect of stiffening the government in its plans for stopping all entries on public lands. Until the question of fraud in the west has been sifted I suppose that we would be bothered and delayed in acquiring our lands on account of the sins of our predecessors in the west. I believe that it will be very difficult to induce any of our friends in Washington to assist us in getting our entries pushed along for the reason that although they know we are not engaged in any wrongdoing, they will fear criticism in case they interfere in any way. I believe that our friends in Washington will want to keep entire free from the land question until all this matter of fraud has been cleared up. The more I see of the situation the more I am convinced that it is fortunate for us

(Deposition of James T. Barber.)

that we have been able to delay manufacturing operations until we have our title to the timber lands secure. We will get our timber all right, but it is going to take time and trouble.”

Q. Mr. Barber, do you know who Mr. Carson referred to as our friends in Washington getting our entries pushed along?

A. Why, I suppose he referred to the department and considered ourselves on friendly terms with the department. All that refers to the issuing of patents.

Q. The reason I used it was because it refers to entries. On page 255 of the letter-press book of the Barber Lumber Company, I find a letter dated September 26, 1903, addressed to Mr. L. G. Chapman, Manager, Boise, Idaho, signed James T. Barber, President. It reads as follows:

“I am in receipt of yours of the 21st. Under present conditions I hardly think it worth while for me to go west until something turns up absolutely requiring it. I will write Mr. Cobb a letter and send you a copy as you suggest. I cannot help expressing my pleasant disappointment at the,” and there is a part of the page torn out there and the next sentence commences line beginning “Condition, of course upon securing,” and the rest of that line is torn off, and the next line begins “direction of Steunenberg.” “I cannot quite make up my mind that it is the thing for us to do to enter valuable scrip on unsurveyed lands with the probability of the land in question being put into a timber reserve. I am sure that the entries of this character would be held up in Wash-

(Deposition of James T. Barber.)

ington upon the final decision of the donor of the new proposed forest reserve. However, as you have already sent men to investigate the timber on this land, it is well enough to permit the matter to stand in that shape and we will have the information at any rate. I presume Hosely has arrived by this time, and it would be an excellent plan to have him go along with the party in question." I will ask you Mr. Barber to read that letter and see if you can remember what it contained on the part of the page torn out; part of two lines; and to what lands it referred?

A. I couldn't tell you what was in there. I know the reference to Mr. Cobb is with reference to state lands.

Q. You can't recollect exactly what was in there?

A. No, sir.

Q. Mr. Barber, on page 924 of the letter-press book of the Barber Lumber Company, there is a letter dated January 17, 1907, addressed to General E. G. Mullen, Auditorium Annex, Chicago, Ill., signed, James T. Barber, which reads:

"Dear Sir: We will accept your proposition to go to Washington. Kindly ascertain why the patents are held up on the timber and stone entries as stated below and take such action as you think advisable toward expediting the issuing of the same. Kindly make report from time to time of the situation to me here.

Following is the list:

(Deposition of James T. Barber.)

Land Office Entryman.

Date of.

Receipt No.

1803	J. J. Keane,	April 13, 1902.
1870	Geo. B. Gibson,	June 17, 1902.
1876	Lola J. Thurman,	June 19, 1902.
1934	John W. Williams,	July 17, 1902.
1939	Roy Dye	July 18, 1902.
1954	Emma Swan,	July 21, 1902.
1955	Sam W. Swan,	July 21, 1902.
1966	H. T. James,	July 24, 1902.
1967	Chas. Arbuckle,	July 24, 1902.
1968	Susan N. Arbuckle,	July 24, 1902.
2021	Kate A. Hunter,	August, 19, 1902.
2156	Robert E. Heel,	November 20, 1902.
2177	John Christianson,	November 21, 1902.

Yours truly,

JAMES T. BARBER, President.

Q. Mr. Barber, what was the proposition of Mr. McMullen concerning,

A. We were to pay him one hundred dollars to do the work we requested him to do. We wanted to know why those patents were not issuing.

Q. Did you pay him more than one hundred dollars?
A. That was all.

Q. You only retained him for one hundred dollars. Wait a minute. He was going there on other business.

Q. Did you find out why they were held up?

A. I don't think he ever reported.

By Mr. MOON.—As I remember it, while he was there we ascertained that certain patents issued

(Deposition of James T. Barber.)

about that time. I don't know if it was these lands or not, but I remember he sent a list of lands on which patents were just issuing; that was the only report that I know of.

Examination adjourned to May 18th, 1909, at nine o'clock in the forenoon, at this office.

May 18th, 1909, nine o'clock A. M., at said office, the examination was resumed.

JAMES T. BARBER, recalled for examination, testified as follows:

Cross-examination.

(By Mr. GORDON.)

Q. Mr. Barber, did you receive any letters from Mr. Norman M. Ruick concerning the building of a railroad in the Boise Basin?

A. Yes, sir. I think there was one or two letters passed between us.

Q. Are they on file now?

A. I think not. I think they were at Boise at the time of the Borah trial and are there.

Q. And there were a number of letters concerning the transactions in the Boise Basin and parts of Boise county with reference to land transactions there from Senator Borah to you, were there?

A. I think there were a very few letters; I am not certain about that.

Q. Were these letters returned to Boise at the time of the Borah trial?

A. If there were any, they were sent out there.

Q. Sent to Senator Borah?

A. I think they were given to Mr. Bundy to take

(Deposition of James T. Barber.)

out there; is that not right, Mr. Bundy?

By Mr. BUNDY.—No, I think we sent them.

A. I have seen something in the correspondence here.

By Mr. BUNDY.—Do you want that Ruick and Borah correspondence?

By Mr. GORDON.—No.

By Mr. BUNDY.—I will get it if you want it.

(By Mr. GORDON.)

Q. On page 661a of the Northwestern Lumber Company's letter-press book, I find a letter dated May 21, 1902, addressed to A. E. Palmer, Spokane, Washington, signed J. T. Barber, V. P.

A. I will say here that the V. P. is an error of the stenographer; I was not vice-president of anything I was writing about.

Q. It is a letter written in your individual capacity, you being at that time vice-president of the Northwestern Lumber Company?

A. That is if it pertains to the business of the Barber Lumber Company; to that business out there.

Q. This letter in part reads:

“We now have associated with us Mr. William Carson of Burlington, Iowa, who with Mr. Moon, will leave here for Boise in about two weeks. They will go over the ground thoroughly and settle any questions of detail and policy which may come up at that time. We are now negotiating for a three thousand acre block of scrip available in that section of the country. I would like to know if you can use this at once as we understand it must be located in

(Deposition of James T. Barber.)

one transaction." Do you remember whether you acquired that three thousand acre block of scrip of Mr. Palmer?

A. I don't think we did. However, I am not absolutely clear on that.

Q. The letter further reads:

"It is our intention to push the location of timber lands in the Basin as rapidly as can be done intelligently."

Q. What did you mean by that, Mr. Barber?

A. It was our intention; we thought it necessary to make such purchases and scrip entries as we could secure at the earliest possible moment; to push, obtain title to the property as fast as possible.

Q. Do you know whether this page has been put in and numbered 661a or in making the book just failed to number the page in its order?

A. I don't know anything about that at all. It frequently is the case that unnumbered pages are in the book.

Q. Do you know who owned that scrip and what kind of scrip it was you were referring to in that letter?

A. I don't recall it now. It was lieu land scrip.

Q. On page 682 of the Northwestern Lumber Company's letter-book I find a letter dated May 31, 1902, addressed to A. E. Palmer, Spokane, Washington, signed, Jas. T. Barber, and reads: "In the matter of using Forest Reserve Scrip in locating government land, I am informed that the scrip in question may be placed on single forties isolated in

(Deposition of James T. Barber.)

sections and townships, the only condition being that if the scrip in question calls for three thousand acres more or less as the case may be, three thousand acres must be entered at one time." Mr. Barber, does that refer to the same three thousand acres that you did in a former letter written ten days previously?

A. It seems to be a continuation of the reference to the same three thousand acres.

Q. And the purpose there was to locate that scrip on selected forties?

A. Yes, sir. In the first letter you will notice I stated it would be necessary to use it all in a body and then I saw it could not be used in scattered forties, not necessarily contiguous, but the whole must be used at one time at one filing.

Q. Again, on page 760 of the same letter-press book I find a telegram from James T. Barber to A. E. Palmer, dated, Spokane, June 20: "Can we handle five thousand Forest Reserve at four fifty." Do you remember buying that five thousand Forest Reserve at that time? A. I don't think we did.

Q. Do you know from whom you could buy five thousand Forest Reserve when you sent this telegram?

A. I do not. We had the questions up with so many people and so many prices. The detail has gone now. I thought I went over that scrip business, of the purchases we made on the direct examination.

Q. Mr. Barber, Mr. George S. Long, in 1903, was connected in some way with the Weyerhaeuser Timber Company, was he? A. Yes, sir.

(Deposition of James T. Barber.)

Q. And do you know what his position was?

A. I don't know; I don't think he was a general officer of the company.

Q. Do you know what his position is now?

A. No.

Q. Do you know what his salary is?

A. No; not his present salary; no.

Q. Do you know how long he had been connected with the Weyerhaeuser Timber people in 1903?

A. It was two or three years; I don't know how long.

Q. And at that time he had been purchasing timber lands for the Weyerhaeuser Timber Company for some years, had he not?

A. Think about two or three years; that is all.

Q. Was he known throughout the country as a man who dealt extensively in timber?

A. No, not until he became connected with the Weyerhaeuser Timber Company.

Q. That had been several years?

A. Two or three years; I don't remember how long.

Q. And to such an extent that it was necessary for him on one occasion to put titles to certain timber he had purchased in your name? Or rather that the people in the neighborhood in which he purchased that timber would not know that he was purchasing it for the Weyerhaeuser Timber people Company?

A. Yes, sir.

Q. Mr. Barber, did you ever go to Washington with a view to getting any of these suspended entries

(Deposition of James T. Barber.)

released or patents to any of the lands in which you were interested in Idaho? A. No, sir.

Q. Did you see anyone with reference to having them go, other than Mr. McMullen that has been referred to here? A. I don't think so.

Q. Do you remember whether or not you ever tried to or did interest Senator Spooner in that behalf?

A. Your question brings to mind a letter I wrote to Senator Spooner with reference to something of the kind.

Q. Did you ever receive a letter from Senator Spooner in reply to that?

A. If I did; I don't remember. It seems to me as if I did, too, but I don't remember of receiving it.

Q. After you wrote the letter to Senator Spooner that you have referred to, do you remember whether or not you telegraphed Senator Spooner and wanted to know why he didn't reply to your letter?

A. If I did, I have forgotten that.

Q. And he replied that he had mailed a letter to Mr. Carson at some hotel in New York?

A. I had forgotten that entirely and don't remember it now. Mr. Spooner and I have been personal friends for twenty years or more. It has been my good fortune to be able to assist in a small way at his political fights and he has frequently referred to me as the "original Spooner man."

Q. Mr. Barber, I find on files of the Barber Lumber Company a letter, I don't know whether it is in evidence or not. It is dated, July 27, 1902, and ad-

(Deposition of James T. Barber.)

dressed to you by Frank Steunenberg, No. 134. The second paragraph reads: "In the matter of the consideration named in the deeds is one I have left to the judgment and discretion of the entrymen and Mr. Kinkaid"; then two words torn off the beginning of the next line, and continues, "And unless I receive explicit orders from you to name the exact amount, I don't want to interfere." Do you know what the words that are missing there were?

A. No, sir; I have no recollection of ever having seen that letter at all.

Q. That letter was dated in July, 1902, and that had reference to what deeds, do you remember, or how many? A. What is the letter?

By Mr. BUNDY.—About the consideration of deeds.

A. Oh, I don't remember how many deeds. There was some correspondence with reference to deeds stating wrong consideration. It is all in evidence there.

Q. Was there ever more than one batch of deeds that you had to get second deeds or new deeds to replace them?

A. I couldn't say now to what extent this was done.

Q. I find a letter in the files of the Barber Lumber Company dated May 29, 1903, No. 226, addressed to James T. Barber, Eau Claire, Wisconsin, signed Frank Steunenberg. The last paragraph reads, "I wish you would inform Mr. Moore that my list of titles Basin is not yet completed as Mr. Kinkaid has

(Deposition of James T. Barber.)

not been replacing some of them, has not been here for nearly ten days.”

By Mr. BUNDY.—In that letter “Moore” should be “Moon.”

(By Mr. GORDON.)

Q. And that would indicate that almost a year later they had not gotten all those deeds replaced?

A. It would indicate that they were taking second deeds on some of the claims a year afterwards; yes.

Q. Did you know whether or not the second deeds were taken from some of the entrymen for other reasons than the consideration named in the deeds was insufficient?

A. I think it is in evidence there that there was quite a number of deeds mistakes were made in description.

Q. Any other reason?

A. I don't remember.

Q. Do you remember whether some of the deeds were given because the entrymen thought they had made their deeds too soon after entry?

A. I don't think I know anything about that.

Q. Do you know when Mr. Palmer deeded to the Barber Lumber Company the title that he held in trust for them?

A. No, sir; I have not the deed in mind.

Q. Did he ever make more than one deed to you for the same lands?

A. I don't know.

Q. You have no recollection upon the subject, have you? A. No, sir.

(Deposition of James T. Barber.)

Q. Mr. Barber, do you know how many acres of scrip the company purchased altogether?

A. I can't tell you offhand.

Q. Can you tell me how many purchases of scrip they did purchase?

A. We purchased so much and were disappointed in using it. I have in mind only two parcels of scrip that we purchased.

Q. From whom did you purchase these two parcels?

A. I think they came from the Northern Pacific Railway. It is possible that Mr. Palmer purchased some in addition to that from somebody else.

Q. And the two parcels you got from the Northern Pacific are they known as parcels one and two?

A. I think perhaps they are so designated on the books.

By Mr. BUNDY.—That was unsurveyed scrip?

A. One lot was unsurveyed and the other came through Stein, a man by the name of Stein, but it was Northern Pacific scrip, and the deal was made through Mr. Phipps.

Q. Mr. Barber, do you remember when you laid that first scrip?

A. Why, I have not got the dates, no, sir. Mr. Moon looked after that a great deal more than I did.

Q. Then all the scrip that the Barber Lumber Company bought did not exceed more than seven or eight or nine thousand acres of land, did it?

A. Well, I have not got the figures in my mind; I can't tell you. It was between eleven and twelve

(Deposition of James T. Barber.)

thousand acres.

Q. Do you know how much of that scrip was unsurveyed? A. I can't tell.

Q. Was half of it unsurveyed scrip?

A. Very small portion of it; not over two thousand acres; I should say. One piece was sixteen hundred acres; I don't know how much the other was.

Q. And for the surveyed scrip you paid about five dollars an acre.

A. I should say between four fifty and six dollars; \$4.50 for some and \$5.35 for some.

Q. That was surveyed scrip? A. Yes.

Q. And for unsurveyed scrip, how much did you pay? A. Ten dollars per acre, I think.

Q. Mr. Barber, do you know whether this scrip that you purchased, you could locate on either odd or even sections or did you have to locate it on one or the other as you selected?

A. I think the scrip was good on any Government land regardless.

Q. The first scrip was purchased in August 15, 1902; that was surveyed scrip.

By Mr. BUNDY.—The first scrip that was located was unsurveyed scrip; that was in November, 1902.

By Mr. MOON.—The first scrip that was bought was six thousand acres from Stein.

(By Mr. GORDON.)

Q. Do you know when you located the six thousand acres of surveyed scrip which you acquired in August, 1902?

(Deposition of James T. Barber.)

A. I can't tell you the date; it was several years afterwards; different times along.

Q. Have you any records in the office when and where you located the other portions of scrip?

A. Mr. Moon can answer that question better than I can; I don't think so though.

Q. Mr. Barber, in going through the files I find that there is a letter addressed to you by Mr. Chapman, December 25, 1905, and the next letter is dated, January 16, 1906, and between that date Governor Steunenberg was assassinated; was there any correspondence between you and Mr. Chapman or letters between you and Mr. Chapman concerning the assassination of Governor Steunenberg?

A. I have no recollection of anything. I think we were notified by Mr. Chapman by telegraph.

Q. That is as far as your recollection goes?

A. Yes, sir.

Q. Would that telegram naturally be on the files here?

A. I don't know why it shouldn't. It is a presumption on my part that we were notified by telegraph. I have an impression that he notified us by telegraph.

Q. You don't know where that telegram is?

A. No.

By Mr. MOON.—The first news that I got of it; we might have telegraphed afterwards; the first news I got or heard of it as I remember it, was Sunday afternoon; you noticed it in a paper and telephoned it to me, and I found it and told you where it was in

(Deposition of James T. Barber.)

the Chicago paper; maybe after that you may have received a telegram.

By Mr. BARBER.—I think we got a telegram.

By Mr. BUNDY.—I don't know why such a telegram should be in the Barber Lumber Company's files; I don't remember seeing any such telegram.

(By Mr. GORDON.)

Q. You remember about the time the investigations were being had by a grand jury concerning the transactions of yourself and other members of the Barber Lumber Company in April, 1907, and that Mr. Chapman was held in contempt for declining to produce certain books and records of the company before the Grand Jury? Did Mr. Chapman consult you either by telegram or letter concerning that matter? A. No, sir.

Q. And did he advise you that he had been held in contempt of court by telegram or letter?

A. I don't think he did, but I am not positive.

Q. Did you have any information from any source at that time that Mr. Chapman was in difficulty?

A. Why, I took the daily Boise paper and I knew what was going on from what I read in there. I don't know how official information came to me that he was in trouble.

Q. Mr. Barber, I have seen a letter somewhere in the files of this company addressed by yourself to Mr. Chapman, your manager out there at Boise, Idaho, dated, April 26, 1907; beginning at the top of page 2, the letter reads as follows: "I want to thank you for the members of the company and particularly

(Deposition of James T. Barber.)

for myself for the position you took and your courage and dignity with which you carried through the consequences. It was not pleasant to be practically in jail and I can assure you that your course is most heartily approved by all the members of the company." The course you refer to in that letter was that of your approval and of the other members of the Barber Lumber Company in Mr. Chapman's declining to bring into court the books and papers, etc., of the Barber Lumber Company?

A. My recollection of the reasons for writing the letter is this: Mr. Chapman, under the advice of his attorney, at Boise had taken a course which had taken a great deal of moral courage. He was not an officer of the company and I thought he was entitled to the expressed thanks of the officers of the company for being brave enough to carry out the instructions of his attorney.

Q. Mr. Barber, I find on the files of the company a letter dated Eau Claire, Wisconsin, March 22, 1905, addressed to James T. Barber, Esq., President, and signed Owen, on letter-heads of John S. Owen Lumber Company; did you receive that letter from Mr. Owen on or about the date it bears date?

By Mr. BUNDY.—What is the number of that?

By Mr. GORDON.—It has no number on it.

A. Yes, sir.

Q. Mr. Barber, from the context of this letter it would seem that Mr. Owens is advising you that he is locating seven or eight persons on quarter sections of land, giving the names of the persons and descrip-

(Deposition of James T. Barber.)

tions of the property on which they had been located, and the addresses of each of these persons, as in some place in Idaho; from Harrison, Idaho; one from Boise, Idaho; another from Council, Idaho; are these locations of these persons made in Idaho or in Wisconsin?

A. I really don't know a thing about them. I don't think they are in the Boise River territory at all. I don't think we ever did anything with them.

Q. On the second page, beginning at the second paragraph, it reads:

"Mr. Button located these parties on these claims. Says all good claims figure out two millions to the quarter. We gave them an estimate on them and only two-thirds of the actual amount. Thought he and I would get them. This Stewart the banker has been already to handle or did. You can put some one on to these. You don't want to go after them. You never got anything for these. I would like to get something of these parties for locating them."

What is that all about, Mr. Barber?

A. I have an indistinct recollection that Mr. Owen wrote to me about this land which was, I think it was in the Payette country. It was not in the country we were operating in at all. Mr. Owen lives here in town and in talking it over he thought we might possibly buy these and make an exchange with somebody who had land in our territory, but we never did anything about it at all. Had nothing to do with it upon receipt of that letter and never did afterwards.

Q. One of the men mentioned in this letter is John

(Deposition of James T. Barber.)

Anderson.

A. If I had a Chicago directory I would show you about five thousand John Andersons.

Q. Is that the John Anderson you introduced to somebody by letter?

A. I don't think so; I have no means of knowing what John Anderson did after he went west.

Q. In a letter dated February 21, 1902, and written to you, Mr. Barber, by A. E. Palmer, and which I think is already in evidence, No. 111½, in which Mr. Palmer says: "I mailed you to-day and report comes Governor Steunenberg of Idaho has sent you Mr. Campbell. Steunenberg will be here in a few days and Campbell is going to finance him because he has confidence in him. Mr. Campbell says if I want the deal he will turn the Governor over to me."

That report referred to in that letter is the report that I questioned you about yesterday and which you said you didn't remember of receiving or ever having seen. Continuing, the letter reads: "He is no doubt a capable and reliable man. If you want to look into his scheme, will pay his expenses to Eau Claire and back, wire me, and I will have him go to see you."

The claim he refers to in there is the proposition that Governor Steunenberg made to you later in the following March, and upon which was based the contract that you have in evidence here?

A. Yes, sir.

Q. "If you do not wire me re this Steunenberg matter the whole thing will be arranged here shortly after his arrival. His report will explain itself."

(Deposition of James T. Barber.)

What did you mean by this, "would be arranged after your arrival"; "Mr. Campbell would finance it"; "Mr. Campbell gave me this in confidence"; what was the confidence, do you know?

A. I don't understand the question; the letter says Mr. Campbell gave him this in confidence.

Q. Did Mr. Campbell think it was such a good proposition that he didn't want anybody but friends to know about it?

A. I think it was something of the kind; I don't know why he restricted it.

Q. In the letter dated February 22, 1902, from Mr. Palmer to you, Mr. Barber, the concluding sentence is: "In the meantime Steunenberg's assistance would be worth a great deal to you." From the context of what goes before it would appear that that had reference to the same property under consideration. In what way would Steunenberg be of great assistance to you? *In a political.*

A. He was an honest man and familiar with the country. I think the correspondence lays a great deal of stress upon his honesty.

Q. In a letter of March 2, 1902, which is also in evidence, a letter from Mr. Palmer to you, Mr. Barber, you use this expression: "He does not want anything out of the deal if we go into it"; that meant that you would not be liable to Mr. Campbell for any commission or pay for turning over the proposition that had been suggested to him? A. Yes.

Q. Again, in a letter dated March 7, 1902, from Mr. Palmer to you, you use the expression: "I pre-

(Deposition of James T. Barber.)

sume, of course, you will assume all responsibility of cruisers, and I am to furnish signed copies or originals of reports before disbursing any money; you must be responsible for the men you sent into the woods, etc."

Those reports to be reports from the cruisers?

A. Yes, in regard to location.

Q. Had nothing to do with reports from Governor Steunenberg as to titles?

A. Had nothing to do with that.

By Mr. BUNDY.—By men sent into the woods what did you mean?

A. Correct estimates of timber; quality; availability of it, the timber, etc.

(By Mr. GORDON.)

Q. There is a letter from Mr. Palmer to Mr. Moon, dated April 2, 1902; I assume you are familiar with all the letters that are in the files that are sent to either you or Mr. Moon; I will read it and ask you what it means. The letter beginning at the top of page two, reads: "The country beyond Pioneersville slopes towards the Payette so that some of the timber that Steunenberg had in mind might come in beyond. Will keep Steunenberg in good humor as he would be valuable in acquiring state lands. In-close state map to show where I was."

Do you know what land that had reference to that slopes towards the Payette and that Steunenberg had in mind?

A. What Palmer was trying to say was that part of the twenty-five thousand acres of Boise Basin

(Deposition of James T. Barber.)

timber that Steunenberg had in mind was, as a matter of fact, was on land that sloped away from the Basin, and he was trying to have us abandon the Boise River basin proposition and take up the Payette River proposition.

Q. Again, in the letter dated April 3, 1902, written by Mr. Palmer to Mr. Moon, he says: "Steunenberg tells me that Capt. Henry is after the Payette state lands. Would like to send a man up there. My object in wanting option on the Cobban tract of timber is to have it tied up while you secure the state lands and Steunenberg claims he can get it. Wire me if I shall have the Governor sign contract and proceed to close up deal."

What state lands were you desirous of acquiring at that time, Mr. Barber?

A. I think that Mr. Palmer refers to the State lands tributary to the Payette territory at the time he wrote that letter. The first part of the letter has reference particularly to sale going on with the Payette scheme and he asks if he shall get Steunenberg to sign contract to abandon the Payette tract and go on to the Boise. The letter particularly refers to signing the contract, going on pushing purchases with reference to the contract. But that contract refers to Payette the Cobban lands were all in the Payette Basin; none of them in the Boise Basin at all; and it was the State lands along the Payette that Palmer was figuring he could get for someone else.

Q. I find a letter from Mr. Palmer to Mr. Moon dated April 4, 1902, in which he says: "The only

(Deposition of James T. Barber.)

title so far acquired of this timber is receiver's receipts, and unless the government should find cause to refuse patents they should come along all right." They have reference to what lands, Mr. Barber?

A. To Basin lands.

Q. In another letter from Mr. Palmer to Mr. Moon, April 5, 1902, he says: "Am going to Boise today to close with Steunenberg. Do you understand the only title you get to the land is receiver's receipts and these receipts are in the names of a great many people. Personally, I am satisfied every thing will come out as the Governor expects. Think it is his intention to scrip the balance of the lands. This land may cost more, but it is safer." What did you understand, Mr. Barber, Mr. Palmer to mean, that the plan was safer?

A. Mr. Palmer didn't like the idea of having receiver's receipts in the hands of a whole lot of people after we had bought and paid for the title. He was afraid there would be a break in the link some there so that we would not finally get the titles that they sent in to us. Evidently, that was what he had in mind. That is the construction I put on it.

By Mr. MOON.—I take it that Mr. Palmer meant that a title direct from the Government was a good deal better than the title that was gotten from an irresponsible entryman that hadn't got his patent yet.

[**Deposition of S. G. Moon, on Behalf of the Defendants (Recalled—Cross-examination).**]

S. G. MOON, recalled as a witness, testified as follows:

Cross-examination.

(By Mr. GORDON.)

Q. Mr. Moon, I find in the files of the Barber Lumber Company a telegram dated April 4, 1902, addressed, A. E. Palmer, Spokane Hotel, Spokane, Washington, and signed, S. G. Moon, and reads: "Yes, if everything seems square." Did you send the telegram to Mr. Palmer of which this is a copy?

A. Yes, sir; I think so.

Q. At that time where did you keep the copies of your letters and telegrams?

A. In D. R. Moon book of the Northwestern Lumber Company.

Q. Will you state why this happened not to be copied in the D. R. Moon, copy-book?

A. I don't remember why it was not. I may have sent the telegram here down town and made a copy of it for the files.

(By Mr. BUNDY.)

Q. Look at it and see if the copy is in your handwriting? A. It is; yes, sir; it is mine.

(By Mr. GORDON.)

Q. Would the fact that the paper indicated that it has never been folded suggest to your mind that you did make it down town and never put it in your pocket?

A. It would rather indicate that it was written

(Deposition of S. G. Moon.)

at the office, but I don't remember definitely anything about it, except that I made that; that is in my handwriting, and I marked it "Copy," for what reason I don't know.

Q. It is clear to you that the copy has never been folded?

A. It does not seem to be; apparently it is not.

Q. I find also in the files of the Barber Lumber Company a telegram dated Eau Claire, Wisconsin, April 7, 1902, addressed to A. E. Palmer, Boise City, Idaho, signed, S. G. Moon, marked, "Charge S. G. Moon, repeat this message," and reads as follows: "I understand the titles have been perfected in a legal way to certain lands in certain parties. Final proofs made and approved by local officials. Receipts issued or will issue upon payment of certain sums to Government and nothing remains to be done but patent to issue; that these parties have legal right to sell and we to buy; patents will issue to us or owner to perfect our titles in these lands; we to pay Sweet the amount to which he is entitled and other actual investment necessary to procure title of lands to be vested in us; our contract and letter of introductions defines our rights and understanding. If in doubt, await letter from Mr. Frawley." Mr. Moon, do you know why this telegram was not copied in the regular letter-press copy-book?

A. As I remember it I came down and asked Mr. Frawley to advise with me about what to answer Mr. Palmer. Mr. Frawley drew the contract and I came down and asked him as I remember it, and dictated

(Deposition of S. G. Moon.)

the telegram, and it was possibly sent from here; possibly it was sent from this office; there was, however, a copy of that letter, as I remember it, containing it; that is possibly on file too. That is as I understand it.

By Mr. BUNDY.—That was sent for Mr. Moon by Mr. Frawley.

By Mr. MOON.—The wire, as I remember it was sent from this office.

(By Mr. GORDON.)

Q. And you remember having sent this message?

A. Yes, sir.

Q. I mean in the manner in which you say; you notice that it says "repeat this message"; was it repeated to you?

A. Yes, sir.

Q. Do you know where the message that was repeated is?

A. I don't know; it was verified, I don't know whether we got it; I presume we did; I don't remember about that; it was repeated by the Boise office and checked as correct; that is all I know about it.

Q. Among the files here, Mr. Moon, is a telegram from Palmer to you dated, April 18, 1902, sent from Boise, in which he says, "The deal is closed; statement and draft forty thousand from Spokane Saturday Sweet thirty thousand held by Steunenberg six months as guaranty to title." What was the matter with the Sweet titles that necessitated Steunenberg holding the money six months as a guaranty?

A. I don't know definitely; Mr. Steunenberg was

(Deposition of S. G. Moon.)

guaranteeing these titles to us under his contract, and I presume he wanted Sweet to share the responsibility with him; that is as I took it at the time.

Q. In a letter dated Spokane, Washington, April 14, 1902, addressed to you, Mr. Moon, signed Palmer, the second paragraph reads: "I also made draft on you for \$1201.20 in payment of three entries made at land office at Boise on Saturday, \$1200.00, exchange on draft \$1.20. Gave Steunenbergs my check for the \$1200.00 and expect to be advised today or tomorrow of the proper entries for same, viz., names of locators, land office receipt numbers, which information I shall forward to you." What did you understand, Mr. Moon, by Mr. Palmer paying \$1200 for three entries?

A. I understood he paid three hundred dollars a piece for them.

Q. Did you understand that you were buying entries at four hundred dollars a piece?

A. I don't remember definitely what I did infer from that, but I probably inferred as Mr. Steunenbergs had told us that he was making partial payments on some of them and would hold back the balance until patents has issued. I don't remember definitely about that, but that is probably what I inferred.

Q. Did he send you the names of these three locators and the land office receipt numbers?

A. I don't remember definitely about that; I presume he did.

Q. Do you know where they are if they did come?

(Deposition of S. G. Moon.)

A. I can only surmise that at the time; in the first place when he sent me from time to time lists of these entries which I kept until I afterwards got the deeds for the same entries and checked them with these lands, and I held these for a time after that until all of the land matters were transferred to the Boise office. From my own memorandum I also checked many of these on plats. You could see the location better, and after I sent the deeds out there I culled out a lot of that memoranda that had been checked and threw it away thinking it was of no use.

Q. The third paragraph reads: "I wish you would have somebody check over the written lists of descriptions sent you with the plat." What description does that refer to and what plat and where are the descriptions and where is the plat?

A. He sent me some lists of lands containing the names of entrymen and the descriptions with a sort of receipt on the bottom or acknowledgment by Mr. Steunenberg which said something like this: "I hold receipts for the above entries. Signed, Frank Steunenberg." I don't remember the exact words; but as I remember it typewritten lists, mostly filled in by, signed by Frank Steunenberg with the acknowledgment as I say after. There was a whole lot of memoranda and the only way I can account for our not having them now is that I threw them away thinking they were of no value because we had the deeds to the same lands afterwards.

Q. As I understand you to say, you made search for this paper and cannot find it?

(Deposition of S. G. Moon.)

A. Yes, sir; if I had considered that receipt of any value after the deeds came I probably would have taken better care of it. My first impression was that I had sent that to Boise with the deeds, but we have been unable to find them, but I do remember of culling out a lot of memoranda at the time that I sent the deeds out there, most of which I made myself. Your next sentence reads: "They do not have their reports in very convenient shape, and I would not be surprised if there are a few discrepancies in the descriptions, but they can be easily corrected." Whom do you mean by "they"; the entrymen?

A. I presume I meant Steunenbergh and Sweet.

Q. And the next sentence: "I am keeping a memoranda here of all these lands, moneys paid on same, etc." Did you ever see the list that Palmer was keeping?

A. No, sir, not that I know of.

(By Mr. BUNDY.)

Q. He rendered you a statement?

A. Yes, but this particular record he was keeping there I don't know.

By Mr. BUNDY.—Let it appear that the counsel for the defendants ask that the gentleman accompanying Mr. Gordon purporting to be an unofficial stenographer and whose identity with the case is not disclosed, that they request that he be sworn to determine what relation he bears to this case and in what capacity he is here, and counsel for defendants insists that he may be sworn.

By Mr. GORDON.—Mr. Triplett is my private

(Deposition of S. G. Moon.)

stenographer and is here to take notes of the testimony as given.

By Mr. BUNDY.—You refuse to allow him to be sworn, do you?

By Mr. GORDON.—Yes, sir.

By Mr. BUNDY.—I don't object to his taking notes, but I object to his taking my statements.

By Mr. BUNDY.—You are a lawyer, are you, Mr. Triplett; do you pretend to be an expert stenographer?

By Mr. TRIPLETT.—I do not make any pretensions.

By Mr. BUNDY.—Are you a stenographer at all.

By Mr. GORDON.—Don't answer him. He refuses to answer.

Q. I find, Mr. Barber, in the files, a letter dated April 25, 1902, signed A. E. Palmer, to Sumner G. Moon, and reads as follows:

“Dear John:

Herewith I inclose letter from Thornton Dated, April 19, also description and estimates of land he had looked at at that time. Wish you would send him one of your estimate books.”

The letter attached is signed Dennis Thornton, Addresses to A. E. Palmer, Spokane, Washington, and is dated, Placerville, Idaho, 19-4, and the letter of Thornton reads as follows:

“Mr. A. E. Palmer,

Spokane, Washington.

Dear Sir: We just mailed the book with some es-

(Deposition of S. G. Moon.)

timates. I could not put them on them town plats, I got. You can copy them off and send the book back or send to the Northwestern Lumber Company, Eau Claire, for one of them estimate books that they use. You will find there is some difference in the land I have located and what you have got on them plats I located the lands he gave me first, but he was up here this week and there was quite a difference but he said it would be all right because they would all have to be located if there is any timber on it. He put a cross on sections that there was only three or four forties on, and I looked the whole section, but he has given me a correct plat now.

Yours very truly,

DENNIS THORNTON."

Q. Do you remember receiving that letter?

A. No doubt I received it; I don't remember particularly.

By Mr. BUNDY.—How is that 4?

By Mr. MOON.—4-19: April 19th.

(By Mr. GORDON.)

Q. Assuming that your explanation or statement that that 19-4 is not the year, but is April 19th, it would be as forwarded by letter of April 19th, 1902?

A. It would be April 19th, 1902; yes, sir.

Q. There is in evidence the book that has been referred to here and which you testified concerning as the 6-4 book?

A. No, sir.

Q. There is in evidence that book?

A. Yes, sir.

Q. There is also another book in evidence show-

(Deposition of S. G. Moon.)

ing some payments of Dennis Thornton?

A. I don't know about that.

Q. Do you have any recollection of having a book or report of Dennis Thornton's other than this, or have you any recollection on the subject at all, of a report from Mr. Thornton?

A. Yes, I think that all of his reports came to us eventually. He was sending for a book there and I sent him out one of our blank estimate books. It was an entirely different book from the plat-book.

Q. What I want to find out is whether these descriptions and estimates of the lands referred to in Palmer's letter is the letter attached, or whether there was a book or something that came along with it?

By Mr. BUNDY.—He is sending for a book there.

A. As I remember it, Mr. Palmer forwarded the estimates which he received from Thornton to this office. At the time we transferred land matters to the Boise office after the office was opened there, these estimates were sent out there, that is as I remember it. I think all the written estimates are in the Boise office; that is, the written reports by the estimators are in the Boise office.

Q. Well, now, is the description and estimates of Thornton referred to in Palmer's letter among those reports and estimates that are at the Boise office?

A. I presume so, I don't know.

Q. In other words, you didn't take this letter of Thornton's which was attached as a report referred to or estimate referred to in Palmer's letter?

(Deposition of S. G. Moon.)

A. I presume there were other estimates with that letter; I don't remember anything about it; there may have been copies of estimates which Palmer made.

Q. There is a telegram on file with the Barber Lumber Company here, dated May 1, 1902, addressed to you, Mr. Moon, by Mr. Palmer, in which he says: "Steunenber contract mailed you April 12 separate from letter. Will have another sent at once." Do you remember receiving that telegram?

A. I think I received it. I remember the fact that the contract didn't come; I remember that particularly; I don't definitely remember that particular telegram. I remember the information it conveyed.

Examination adjourned to 1:30 o'clock P. M. this day.

1:30 o'clock P. M. this day, examination resumed.

**[Deposition of F. H. L. Cotten, for the Defendants
(Recalled).]**

F. H. L. COTTEN, recalled as a witness, testified as follows:

(By Mr. BUNDY.)

Q. I show you a statement marked Defendant's Exhibit "D" and which you have marked "Barber and Moon and Barber Lumber Company in account with Northwestern Lumber Company, Eau Claire, Wisconsin"; is that a statement you have prepared since you testified? A. Yes, sir.

Q. A prepared copy from the books of the Northwestern Lumber Company?

A. Yes, sir.

(Deposition of F. H. L. Cotten.)

Q. Does that statement, exhibit "D," contain each and every item charged against Barber and Moon in their individual transactions, as well as all charges made against the Barber Lumber Company, on the books of the Northwestern Lumber Company, up to May 20th, 1904? A. It does.

Q. The books which have been presented here, cash-book, journal and ledger of the Barber Lumber Company, were opened on May 20th, 1904, and were written up from the books of the Northwestern Lumber Company from which exhibit "D" is a copy?

A. Yes, sir.

Q. So that the three account-books, ledger, cash-book and journal contain a correct transcript, statement of all accounts, all charges and all credits which appear on the books of the Northwestern Lumber Company against Barber or Moon or against the Barber Lumber Company, in the Idaho land business? A. Yes, sir.

Q. And the books at Boise in so far as certain accounts were transferred from the Eau Claire office to the Boise office were made from the statement you sent out there taken from the cash-book, ledger and journal here?

A. Yes, sir, so far as I know.

Q. You remember, Mr. Cotton, of sending to Mr. Davis, the Boise bookkeeper, a letter of instructions to open books in which you sent him a detailed statement of all accounts that were being transferred from this office to that?

A. Yes, sir, I remember that.

(Deposition of F. H. L. Cotten.)

Q. These accounts or statement of accounts which you sent to Mr. Davis were taken from the ledger, cash-book and journal of the books kept here?

A. Yes, sir.

Q. And contained everything pertaining to these accounts which were on the books here?

A. Yes, sir, everything.

By Mr. BUNDY.—I offer that exhibit “D” in evidence and in connection with it the ledger, cash-book and journal of the Barber Lumber Company kept here at Eau Claire. (Received.)

It is stipulated that the books need not be copied into the record, but that the same shall be shipped to Boise and filed with the clerk for use on the trial of this action.

By Mr. BUNDY.—That is all.

Defendant's Exhibit "D."

Eau Claire, Wis., May 20, 1904.

Barber & Moon,

(J. T. Barber and S. G. Moon)

In Account with Northwestern Lumber Company.

1902.

Mch. 6.	To Cash, Paid Frank Steunenberg,		
	Currency	\$ 75.00	
	Chicago check #36,624	115.00	
		<hr/>	\$ 190.00
" 7.	" " Telegram to A. E. Palmer	1.35	
	" "	1.20	
	" C. H. Henry	1.35	
		<hr/>	3.90
" 8.	" " Telegram to A. E. Palmer .....		.80
" 10.	" " Telegram to Frank Steunenberg, Chicago,		.40
" 22.	" " S. G. Moon's telegram to Frank Steunenberg, Idaho .....		.75
" 24.	" " Express on samples Idaho Pine to Stevens Point, Wis. ....		.30
" 25.	" " Express on package to Cobban, Casey & Co., Butte, Montana .....		.60
" 27.	" " S. G. Moon's Chicago check #819		5.10
" 29.	" " Telegram to A. E. Palmer about Dennis Thornton ...		.75
" 29.	" " Check #60,177, Dennis Thornton		150.00
" 31.	" " Telegram to A. E. Palmer, March 13th...		.60
Apr. 3.	" " Telegram to A. E. Palmer		1.00
" 8.	" " Telegram to Boise, Idaho		9.75
" 9.	" " Telegram to A. E. Palmer, April 8th....		.85
" 17.	" " Checks #60,261 and 60,263, to J. T. Joyce,		
	Cashier, for A. E. Palmer's drafts:		
	One draft	38,763.75	
	One draft	1,201.20	
		<hr/>	39,964.95
" 29.	" " A. E. Palmer's Demand Draft of April 25, 1902		826.00
" 30.	" " S. G. Moon's Chicago check #824 to H. M. Davenport, recording papers in Schofield case		5.10
		<hr/>	41,160.85

vs. The Barber Lumber Company.

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1902.			Forward,	\$ 41,160.85
May 8.	To	Cash, A. E. Palmer's draft of May 2, 1902	\$	250.25
May 9.	"	" Telegram to William Carson50
" 10.	"	" " .....		.50
" 12.	"	" J. T. Barber's telegram to A. E. Palmer .....		.75
" 13.	"	" S. C. Moon's telegram to A. E. Palmer, Spokane .....		.75
May 22.	"	" Minneapolis check #1718, to Mrs. Dennis Thornton, Chippewa Falls		100.00
June 9.	"	" Telegram to Wm. Carson .....	.71	
		" S. G. Moon .....	.75	1.46
" 20.	"	" Telegram to S. G. Moon .....	.80	
		" " .....	.75	1.55
" 21.	"	" Telegram to S. G. Moon .....		.90
" 26.	"	" A. E. Palmer's draft of June 8, 1902, A. E. Palmer's telegram forwarded to S. G. Moon, Glenwood, Wis., Care Train #1		5,005.00
" 28.	"	" Check #60,578, Mrs. Dennis Thornton .....		.37
" 28.	"	" S. G. Moon, Expense trip to St. Paul, etc., per S. G. Moon's Expense Book, page 62.....	12.11	
		Expense on trip to Idaho with men, per S. G. Moon's Expense book, pages 68-69	292.95	305.06
" 30.	"	" A. E. Palmer's draft of June 23, 1902		963.55
" 30.	"	" Land Book, sent A. E. Palmer		10.28
July 1.	"	" A. E. Palmer's draft of June 25, 1902	5,005.00	
		Chicago check #37,092, Burlington Lumber Co. Expense John Campbell and man, Duluth, St. Paul and return	48.00	5,053.00
" 3.	"	" Paid A. E. Palmer's draft of June 27, 1902.....		5,005.00
" 7.	"	" Telegram to Frank Steunenbergl .....		.80
" 9.	"	" A. E. Palmer's draft of June 30, 1902		5,005.00
" 14.	"	" S. G. Moon's telegram to A. E. Palmer .....		.95
" 14.	"	" A. E. Palmer's draft of July 7, 1902		5,005.00
" 16.	"	" S. G. Moon's check #854, to Secretary of State, for filing Articles of Incorporation		150.00
" 19.	"	" Recording Articles of Incorporation, Barber Lumber Company		3.50
" 22.	"	" A. E. Palmer's draft of July 14, 1902		130.70
				<hr/>
				\$ 68,255.72

1902.	Forward,	\$68,255.72
July 22.	To interest on account to July 21, 1902, per state- ment	\$ 608.47
" 23.	Balance of Barber & Moon Account transferred to Barber Lumber Company	6,146.01
		<hr/> \$ 75,010.20

CREDITS.

1902.			
July 19.	By error charges of recording Schofield papers, viz.:		
	March 27, 1902	\$5.10	
	April 30, 1902	5.10	\$ 10.20
		<hr/>	
" 23.	By 50% Assessment on stock in Barber Lumber Co., advanced by Barber & Moon, viz.:		
	J. T. Barber .....475 shares	23,750.00	
	S. G. Moon .....295 "	14,750.00	
	C. D. Moon .....130 "	6,500.00	
	J. G. Dudley 50 "	2,500.00	47,500.00
		<hr/>	
" 23.	By Cash, Carson & Lockwood, viz.:		
	Chicago E-7,393	25,000.00	
	Chicago 11,709,	2,500.00	27,500.00
		<hr/>	
			<hr/> \$ 75,010.20

Eau Claire, Wis., May 20, 1904.

Barber Lumber Company,

In Account with North Western Lumber
Company.

1902.					
July	23.	To	Cash, Express on seal, July 22, 1902 .....	\$	.45
"	25.	"	" Express on Letter Book .....		.50
"	30.	"	" A. E. Palmer's draft. (No date.)	10,010.00	
"	31.	"	" 2 telegrams, A. E. Palmer.	2.00	
			1 telegram, Carson. ....	.50	2.50
<hr/>					
"	31.	To	Seal	2.00	
			Letter Book	4.67	6.67
<hr/>					
Aug.	4.	To	Cash, Express on package from A. E. Palmer		.30
"	8.	"	" Check #60,775, Mrs Dennis Thornton ...	150.00	
"	9.	"	" Currency to A. E. Palmer, given by S. G. Moon	40.00	
"	9.	"	" Check #60,780, C. B. Connors, V. o. S. G. Moon	200.00	
"	11.	"	" A. E. Palmer's drafts, viz.: August 4, 1902	10,010.00	
			" 4, 1902	161.75	10,171.75
<hr/>					
"	15.	"	" Chicago check #37,321, W. H. Phipps, Land Commissioner, for scrip	30,000.00	
"	26.	"	" Check #60,836, Wm. Anderson, v. o. S. G. Moon	50.00	
"	30.	"	" Telegrams in August	1.00	
"	30.	To	One Rubber Stamp .....	.12	
Sept.	3.	To	Cash, Check #60,868, Wm. Anderson, on account	100.00	
"	8.	"	" Express on packages from S. D. Childs & Co., Letter Heads .....	.55	
"	16.	"	" Chicago check #37,465, C. H. Hein, acct. land scrip	2,100.00	
"	16.	"	" Minneapolis check #1,957, W. H. Phipps, recording four deeds from N. P. Ry. Co. to S. G. Moon	6.00	
"	18.	"	" Chicago check #37,474, Wm. Carson, expense, 2 trips to Idaho	190.00	
"	19.	To	S. G. Moon's Expenses on thip to Boise and Spokane, per his Expense Book, page 70	213.75	
"	19.	"	" S. G. Moon, for cash paid Dennis Thornton, Sept. 4, 1902	100.00	
"	22.	To	Cash, Check #60,941, Dennis Thornton, balance on Idaho trip	272.65	
					<hr/>
					\$ 53,616.24

1902.				Forward,	\$ 53,616.24
Sept. 22.	To	Cash, Freight on Stock Book and balance of			
		letter-heads from Chicago .....			.25
" 23.	"	"	Paid draft of A. E. Palmer, Sept. 15th		186.55
" 24.	"	"	Check #60,947, Frawley, Bundy & Wilcox		213.50
" 25.	"	"	Chicago check #37,518, to S. D. Childs & Co., for account, viz.:		
			Bill 9/11, 5,000 letter-heads ...	32.00	
			Bill 9/16, 300 stock certificates	30.00	62.00
Oct. 4.	"	"	Check 60,992, G. W. Smith, P. M., 3,000 stamped envelopes		64.20
" 7	"	"	Check 61,006, Wm. Anderson, balance of account, v. o. S. G. Moon		46.25
			Check 61,011, C. B. Connors, balance of account, (order S. G. Moon)		125.20
" 17.	"	"	N. Y. Check #1,042, Frank Steunenberg, survey millsite	63.50	
			Livery	4.00	67.50
Nov. 4.	"	"	N. Y. check 1,058, A. E. Palmer		3,000.00
" 24.	"	"	J. T. Barber's telegram to Wm. Carson .....	.75	
			Wm. Carson's telegram to J. T. Barber .....	.32	1.07
" 29.	"	"	Telegram to F. Steunenberg, Nov. 10th,		.75
Dec. 3.	"	"	N. Y. Check #1088, A. E. Palmer 2,000.00		
			N. Y. Check 1089, " 2,000.00		
			N. Y. Check 1090, " 2,000.00		6,000.00
" 19.	"	"	Telegram to B. Campbell, Ass't Traffic Mgr.....		.67
" 31.	"	"	Telegrams for December, 1902		1.95
" 31.	To	J. T. Barber, for traveling expenses to January, 1903, per Expense Book ...			213.85
1903.					
Jan. 10.	To	Cash, Minneapolis check #2180, Clapp & Macartney,			575.30
" 20.	To	December telephone tolls, Mr. Barber to Burlington			2.25
" 22.	To	Cash, Telegram to Steunenberg, 1/18 .....			.80
" 27.	To	Cash, Telegram from Steunenberg			1.65
" 31.	"	"	Telegrams for January, 1903		
			Telegram to Steunenberg .....	.75	
			"	1.15	1.90
Feb. 3.	"	"	Telegram from F. Steunenberg		2.10
" 16.	"	"	Chicago check #38,203, To Wm. Carson, for Mr. Carson and Mr. Rand's expenses, Burlington to Boise, Idaho, (letter 2/13.)		267.00
" 18.	"	"	Frank Steunenberg's draft of Feb. 10, 1903		20,000.00
" 20.	"	"	Frank Steunenberg's draft of Feb. 13		25,000.00
			Forward,		\$109,450.98

vs. The Barber Lumber Company. 4773

1903.			Forward,	\$109,450.98
Feb. 26.	To Cash,	Telegram from Frank Steunenberg,		
		2/25-03	2.05	
		Telegram from Frank Steunenberg,		
		2/26-03 .....	.75	2.80
" 28.	" "	Telegram Hotel Idanha, 2/13 ....	.75	
		Telegram F. Steunenberg, 2/26 ...	.75	1.50
Mar. 23.	" "	Frank Steunenberg's draft of Mar. 16,		
		1903		20,000.00
" 30.	" "	Freight on Books		1.13
April 7.	" "	Chicago check #38,454, Secy. of State		
		fees for increase of capital stock,		
		\$150,000.00 to \$600,000.00		450.00
" 10.	To	2 Clerk of Court certificates as to F. H. L.		
		Cotten being Notary Public, used on		
		certificate of Amendment to Articles of		
		Incorporation .....		.50
" 11.	To Cash,	Frank Steunenberg's draft of April 3,		
		1903		10,000.00
" 24.	" "	Recording Amendment of Articles of		
		Incorporation		1.00
" 25.	" "	Express on Cash-book and Journal from		
		Hall & McChesney		1.50
" 30.	" "	Telegrams for April,		3.10
May 4.	" "	Telegrams, May 2, 1903, viz.:		
		Mr. Barber to Borah, Boise	1.50	
		Borah to Mr. Barber	1.00	2.50
" 6.	" "	N. Y. check #1,245, A. E. Palmer for		
		services in land matters		2,500.00
" 13.	" "	Frank Steunenberg's draft of May 6,		
		1903		7,500.00
" 30.	" "	Telegrams in April, viz.:		
		To C. J. Mullen.....	.75	
		To W. E. Borah	1.05	
		To F. Steunenberg.....	1.15	
		From F. Steunenberg .....	.80	
		To F. Steunenberg .....	.75	
		From F. Steunenberg	1.10	5.60
" 30.	To	Books		51.75
June 8.	To	Telephone to Carson, Burlington, 5/4 ...		2.25
" 15.	To Cash,	Freight on Letter File		1.80
" 20.	" "	Express on papers sent to F. Steunenberg		.60
" 23.	" "	Chicago check #38,808, per J. T. Barber		50,000.00
" 25.	" "	Telegram from Frank Steunenberg		1.35
" 26.	" "	Telegram from Boise, Idaho		1.60
		Forward,		\$199,979.96

1903.		Forward,	199,979.96
June 30.	To Cash, Telegrams during June, viz.:		
	6/17, To Wm. Carson.....\$	.62	
	6/18, Wm. Carson .....	.50	
	6/18, To F. Steunenberg	1.20	
	6/20, To F. Steunenberg ..	.75	
	6/20, From F. Steunenberg	1.35	
	6/23, To First National Bank	1.25	
	6/24, To F. Steunenberg .....	.75	
	6/27, To F. Steunenberg.....	.75	
	6/27, From F. Steunenberg	1.55	
	6/27, From F. Steunenberg .....	.85	9.57
" 30.	To Filing Cabinet and Index Cases		39.60
July 6.	To Cash, Express on plans returned to Allis Chalmers Co. ....		.25
" 31.	To	2.25	
	ad.	1.60	3.85
" 31.	To Cash, Telegrams, viz.:		
	7/2, To F. Steunenberg	1.00	
	7/16, " .....	.75	
	7/20, " .....	.75	2.50
Aug. 21.	" " Check #62,602, Wickham & Farr, for Power of Attorney, relating to Idaho land		2.00
" 21.	" " Telegram to Mr. Hoseley .....		.25
Sept. 5.	To One Diagram Book, per S. G. Moon		1.75
" 5.	To Cash, Chicago check #39,119, Expense of trip of G. D. Hoseley to Boise, Idaho		151.00
" 29.	" " Frank Steunenberg's draft of Sept 18, 1903,		1,500.00
" 30.	" " 9/1, Telegram to Harvey Murphy ..	.60	
	9/4, Telegram to F. Steunenberg ...	1.20	
	9/8, " .....	.75	
	9/8, Telegram from F. Steunenberg ..	1.25	
	9/8, Telegram to F. Steunenberg ...	.75	
	9/9, Telegram to J. C. Stubbs .....	.77	
	9/10, Telegram from F. Steunenberg ..	.95	
	9/10, Telegram to F. Steunenberg ..	.75	
	" " " .....	.85	
	" " " .....	.75	
	" Telegram from F. Steunenberg ..	.75	
	9/10, " .....	.75	
	9/15, Telegram to L. G. Chapman ...	.75	
	9/28, Telegram to F. Steunenberg ...	.75	
	9/29, Telegram from F. Steunenberg ..	.90	12.52
Oct. 1.	To 4 Notarial Certificates from Clerk of Court on Affidavits regarding scrip, by S. G. Moon		1.00
" 8.	To Frawley, Bundy & Wilcox's bill, Sept. 22, 1903, drawing Power of Attorney		2.00
" 13.	To Cash, L. G. Chapman's draft, 10/8		1,000.00
		Forward,	\$202,706.25

vs. The Barber Lumber Company. 4775

1903.			Forward,	\$202,706.25
Oct. 14.	To	Telephone Tolls in September, to Macartney .....		.50
" 16.	To Cash,	F. Steunenberg's draft, Oct. 9th	3,000.00	
		F. Steunenberg's draft, Oct. 9th	10,000.00	
" 24.	" "	Paid L. G. Chapman's draft of 10/14,.	1,000.00	
" 31.	" "	Telegram 10/6, to A. E. Macartney .40		
		" 10/8, to L. G. Chapman . . .75		1.15
<hr/>				
Nov. 30.	" "	Telegram 11/27, to Wm. Carson .....		.50
" 30.	To	Interest on your account from July 23, 1902, to December 1, 1903, at 5%	493.80	
Dec. 10.	To Cash,	Chicago check #39,629, First National Bank, Boise, credit F. Steunenberg ...	10,000.00	
" 24.	" "	N. Y. check #1,438, First National Bank, Boise, Idaho, v. o. J. T. Barber	2,600.00	
" 24.	" "	Chicago check #39,730, First National Bank, Boise, Idaho, v. o. J. T. Barber	10,000.00	
Dec. 31.	" "	Telegrams for December, viz.:		
		12/10, To F. Steunenberg .....	.75	
		12/18, " "	2.80	
		12/26, " "	1.20	
		12/28, " "	2.65	
		12/29, " "	2.40	
		12/29, From F. Steunenberg	1.60	
		12/29, To Calvin Cobb	4.90	
		12/31, From Calvin Cobb	3.45	
		12/31, To Calvin Cobb .....	.75	20.50
<hr/>				
" 31.	To	J. T. Barber's traveling expenses, per his expense book, Jan. 1, 1903, to Nov. 28, 1903	722.90	
" 31.	To	Interest on your account, Dec. 1, 1903, to Jan. 1, 1904, at 5%	116.65	
<hr/>				
1904.				
Jan. 1.	To	Labor and material (Stanley Office Acct.) used in experimenting with log flumes at Stanley. Itemized statement sent to C. W. Lockwood included in statement rendered Jan. 1, 1904	313.48	
" 11.	To Cash,	Chicago check #39,813, sent Boise, Idaho, for your account on Barber Lumber Co. books	500.00	
" 13.	To	Telephone Tolls, 1/29, Wm. Carson	2.25	
" 30.	" "	Chicago check #39,918, W. E. Borah, Boise, Idaho, (Account F. Steunenberg on B. Lbr. Co. Books)	6,600.00	
" 30.	" "	Telegrams 1/11, Calvin Cobb	3.10	
		" 1/21, to Boise	3.75	6.85
<hr/>				
" 30.	To	One Letter Book		4.67
Forward,				\$248,089.50

1904.			Forward,	\$248,089.50
Feb. 22.	To Cash, Chicago check #40,022, sent W. E. Borah, Boise, Idaho			10,000.00
" 29.	To Cash, Telegram 2/15, to W. E. Borah ....	.80		
	" " " ....	.75		
	" 2/22, "	1.15		2.70
Mar. 17.	To Telephone Tolls, 2/26 and 2/29, Burlington	2.25		
		2.25		
	2/29, W. W. Phipps	1.10		5.60
May 16.	To Cash, Check 40,447, A. E. Macartney, cash payment on contract for 2,640 acres of land in Idaho with Northern Pacific Railway Company			5,000.00
			Total Debits,	\$263,097.80

CREDITS.

1902.				
July 23.	By	Balance of Barber & Moon Account transferred to Barber Lumber Co.	\$	6,146.01
" 30.	By	10% assessment on subscriptions to stock in Barber Lumber Co., viz:		
		J. T. Barber	4,750.00	
		S. G. Moon	2,950.00	
		C. D. Moon	1,300.00	
		Jos. G. Dudley	500.00	9,500.00
" 30.	By	Carson & Lockwood, check #271—10% assessment on Barber Lumber Co. stock		5,500.00
Aug. 15.	By Cash, Estate of Wm. Carson, check #278,....			13,750.00
" 16.	By	25% assessment on stock in Barber Lbr. Co., viz:		
		J. T. Barber	11,875.00	
		S. G. Moon	7,375.00	
		C. D. Moon	3,250.00	
		J. G. Dudley	1,250.00	23,750.00
Nov. 4.	By Cash, A. E. Palmer refunded a portion of amount paid Aug. 11, 1902, on his draft of Aug. 4, 1902, (in N. Y. Exchange)			5,000.00
Dec. 11.	" "	15% assessment on Barber Lumber Co. stock, Wm. Carson Estate check #307		8,250.00
" 11.	By	15% assessment on Barber Lumber Co. stock, viz:		
		S. G. Moon .....295 shares, 4,425.00		
		C. D. Moon .....130 " 1,950.00		
		Jos. G. Dudley .. 50 " 750.00		
		J. T. Barber ....475 " 7,125.00		14,250.00
			Forward,	\$86,146.01

vs. The Barber Lumber Company.

4777

1903.		Forward,	\$ 86,146.01
May 27.	By Cash,	Clapp & Macartney's check #4,142 on St. Paul to C. W. Lockwood, Treas., endorsed to us	5,000.00
June 3.	" "	Received of C. W. Lockwood, Treas., Chicago Exchange #29,950	36,500.00
		Received of C. W. Lockwood, Treas. Chicago Exchange, #12,699	5,000.00
" 30.	By "	L. G. Chapman's order #179	500.00
July 3.	" "	Mrs. S. F. Moon's order 1,508...13,750.00	
		S. G. Moon's order #392 .....22,000.00	
		J. T. Barber, 25% assessment on 670 shares Barber Lumber Co. stock	16,750.00
		C. D. Moon, 25% assessment on 470 shares Barber Lumber Co. stock	11,750.00
			64,250.00
" 18.	By Cash,	J. A. Smith's check #5,504, 25% assessment on 50 shares stock	1,250.00
1904.			
Jan. 25.	By Cash,	C. W. Lockwood's check on First National Bank of Burlington, for 15% on stock subscription, viz:	
		C. W. Lockwood, 15%.....	21,840.00
		Wm. Carson, 15%.....	60.00
		H. S. Rand, 15%.....	3,000.00
		A. E. Macartney, 15%.....	3,000.00
			27,900.00
" 25.	By	15% on Barber Lumber Co. stock viz:	
		J. T. Barber, 670 shares...10,050.00	
		S. G. Moon, order 496, 880 shares	13,200.00
		C. D. Moon, order 14, 470 shares	7,050.00
		Mrs. S. F. Moon, order #1,716, 550 shares	8,250.00
		L. G. Chapman, order #200, 15% assessment on Barber Lumber Co. stock	300.00
			38,850.00
" 28.	By Cash,	J. A. Smith's check #5817, 15% assessment on stock	750.00
		Total Credits,	\$266,146.01

SUMMARY.

Total credits to May 20, 1904	\$266,146.01
To Total Debits to May 20, 1904	263,097.80

1904.

May 30.	By Balance this date,	\$ 3,048.21
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Explanatory.

There are three charges for telegrams in the foregoing statement that are not itemized or explained in detail, viz.:

1st. The charge of August 30, 1902, for cash paid for Telegrams in August, \$1.00, should have been entered on the Cash Book, viz:

J. T. Barber's telegram of Aug. 11, 1902, to A.

E. Palmer	\$1.00
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2nd. The charge of December 31, 1902, which reads, "Telegrams for December, \$1.95" should have been entered on the cash-book. viz:

J. T. Barber's telegram of Dec. 15, 1902, to F.

Steunenbergs	\$.75
Telegram, Dec. 26, 1902, to C. B. Steunenbergs	1.20

\$1.95

3rd. The charge of April 30, 1903, which reads, "Telegrams for April, \$3.10" should have been entered on the cash-book, viz:

Telegram received by J. T. Barber April 16th

(to J. T. Barber from?)85
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Telegram April 17, to William Carson75
--	-----

Telegram April 27, to F. Steunenbergs75
---	-----

Telegram April 28, to E. G. Mullen75
--	-----

\$3.10

Defendant's Exhibit "D."

(By Mr. GORDON.)

Q. Mr. Cotten this includes, this exhibit "D" includes everything that was in the last statement or report of Governor Steunenbergs?

A. Governor Steunenberg's reports never got on to the Northwestern Lumber Company's books: this went directly on to the Barber Lumber Company's books. These are the accounts prior to the time we opened the Barber Lumber Company's books:

By Mr. GORDON.—That is all.

**[Deposition of S. G. Moon, for the Defendants
(Recalled).]**

S. G. MOON, recalled as a witness, testified as follows:

Cross-examination.

(By Mr. GORDON.)

Q. In your examination in chief you have testified that you had received a wire from Governor Steunenberg to the effect that the situation there was most satisfactory and that the party had been recalled. Is that telegram in the records here; yes, it is in the letter of December 17, 1902, written by you to Mr. Palmer; you acknowledge his letter of the 14th of December and say, "I note what you say about suspended entries being released"; what did you mean by that; what suspended entries were there?

A. I don't remember about that; if I could see the letter I might possibly tell.

Q. Page 1401 of the D. R. Moon book.

A. I don't remember definitely about that.

Q. In the letter written by Mr. Palmer to you from Spokane, June 27, 1902, he says, "I have drawn on Barber and Moon for five thousand dol-

(Deposition of S. G. Moon.)

lars. Steunenbergh phoned yesterday saying that the local land office has issued final receipts and he had taken deeds for same which required money." These six deeds covered recent entries so it would appear the receiver has withdrawn his objections."

Q. Do you know what deeds and entries that had reference to?

A. No, sir, not particularly. It had reference to some of the Basin entries.

Q. In a letter dated July 3, 1902, Mr. Palmer, in writing to you, says, that he incloses Conner's report on lands to be located by scrip; he also says that Conners is now in 6—4; do you know where the report of Conner's is on that?

A. I presume it is in the Boise, in the files in the Boise office.

Q. Do you remember when Mr. Thornton was directed by you to go to Spokane the first time whether you gave him a letter to Mr. Palmer, a letter of introduction? A. I think I did.

Q. I notice in a letter here of June 15, 1902, addressed to you by Mr. Palmer, he attaches a report of Dennis Thornton of date, July 10th. At the end of that report Mr. Thornton says: "In the first plats that Mr. Kinkaid gave me there is some state selections in town 7, range 4 east. I will look over these lands until I get further orders from you and also any good sections adjoining them." Do you know why Mr. Thornton went to Kinkaid to get plats of lands in which you were interested?

(Deposition of S. G. Moon.)

A. No, sir.

Q. Mr. Moon, I have a letter dated, July 26, 1902, which appears to be a copy of a letter from C. B. Conners to A. E. Palmer and at the bottom of that letter are the initials S. G. M. and then in lead pencil is the following: "Somehow Conners neglected his instructions and evidently didn't get at least three letters I wrote him instructing him to meet me in Boise on the 25th and he was not there. I telephones Thornton to tell him to start to Eau Claire by way of Spokane. I got a very poor report on Conners in Tacoma recently. (Signed) A. E. Palmer." Do you remember receiving that letter?

A. I don't remember it particularly; no doubt I received it.

Q. Did you ever hear of or did you ever have any report from Conners on 6—4 lands?

A. Yes, sir.

Q. In what form was it? A letter?

A. No, I think it was a detailed statement of the timber, on lands in 6—4, was sent by Palmer to us; afterwards sent out to the Boise office. I don't remember whether it was in a book or sheets. And I don't remember whether it was the original report or a copy of a report from Palmer; I think I got the original report from Conners, however.

Q. The letter, copy of a letter from C. B. Conners to A. E. Palmer referred to reads: "I send to you today by mail my report on 6—4 east as ordered by you," then there is more of the letter and after

(Deposition of S. G. Moon.)

the signature is a postscript: "As I am liable to see you in a few days, I will not write any explanations to 6—4 east"; and it is your impression that you received a copy of the report that Connors refers to in this letter as having mailed Palmer?

A. I think I did. I think the information he reported about 6—4 was that a large part of the land in the western part of the town was Bald Mountain and contained no timber in the southwestern part perhaps. His instructions as I remember it were to cruise the whole town. He didn't cruise part of the western part of that town for the reason, that is by forty acre pieces, report on them by forty acre pieces, for the reason that he could see that the whole country was Bald Mountain and contained no timber.

[Deposition of James T. Barber on Behalf of the Defendants (Recalled—Cross-examination).]

JAMES T. BARBER, recalled for cross-examination, testified as follows.

(By Mr. GORDON.)

Q. Mr. Barber, I show you a letter, dated, Boise, Idaho, August 15, 1902, addressed, Hon. Jas. T. Barber, Eau Claire, Wisconsin, and signed, Frank Steunenbergh.

By Mr. BUNDY.—What is the number.

By Mr. GORDON.—140.

Q. I will ask you if you received that letter from Governor Steunenbergh on the date of the stamp as received August 19, 1902?

(Deposition of James T. Barber.)

A. Yes, sir.

Q. On the second page of that letter is the following: "The boys here have taken titles since my last report in number to make the titles 69. Expect fifteen or twenty more within a week or two"; do you know to whom Governor Steunenberg refers when he said the boys had taken titles?

A. No, sir, I do not.

Q. Never inquired of him who he meant, did you?

By Mr. BUNDY.—I suppose you could make a pretty good guess at it now.

A. It was an affectionate way of speaking of the men who were making timber and stone entries, I suppose.

By Mr. BUNDY.—No, he spoke of the boys who were buying for him, Kinkaid.

A. Is that it; I don't know; I have forgotten.

(By Mr. GORDON.)

Q. Mr. Moon, in a letter from Mr. Palmer dated July 30, 1902, he uses this language: "Just received your wire; Phipps says scrip in question is all right and can be located on lands described"; do you know what lands were described to Mr. Phipps in the inquiry whether or not certain scrip he had could be located thereon?

A. My impression was that we asked him if it could be located on government timber land in southern Idaho.

Q. Was that by letter you made that inquiry?

(Deposition of James T. Barber.)

A. I have forgotten about that. That was my first experience in matters pertaining to scrip, and I got the information from some place that there was scrip, that scrip must be located on lands of similar character; that is some scrip could only be located on arid lands, on some kinds of lands that was not timber lands, and I asked the question whether it could be located on timber land in southern Idaho.

Q. In the next sentence of the same letter Mr. Palmer writes, "Have bought six thousand acres at \$5.35 from Mr. Stein subject to it being such scrip as you can use"; was that the same kind of scrip you were inquiring of Mr. Phipps about?

A. Yes, sir, that scrip was exactly the same scrip; that was Northern Pacific Railroad scrip

By Mr. BUNDY.—The Stein scrip and the Phipps scrip spoken of here are one and the same thing.

Q. Mr. Moon, do you know whether that six thousand acres referred to in Mr. Palmer's letter has ever been placed?

A. I think it has, yes, sir.

Q. Where was it placed?

A. I think it was divided up and placed in different places.

By Mr. KEIGWIN.—Divided up into how small parcels?

A. That I can't remember about definitely.

Q. As low as 40 or 60 acres?

A. I think not, although I don't remember.

(Deposition of James T. Barber.)

Q. Mostly in 160 acre blocks, do you think?

A. I think it was larger blocks than that. It was said I think in 3 or 4 different lots.

Q. That six thousand acre lot of scrip was located on surveyed lands? A. Yes, sir.

Q. And didn't reach unsurveyed lands?

A. No, sir.

Q. This part was located on surveyed lands?

A. Yes, sir.

By Mr. GORDON.—Did you ever have more than this six thousand acres that you got located on surveyed lands?

A. I am not sure about that, it is the only lot that I remember now, we had a time getting rid of that; there may have been other scrip bought by Mr. Chapman or through the office at Boise, but I don't remember of any.

Q. Any prior to 1904 at Boise?

A. Not that I remember of.

Q. He could not have bought any scrip there before the office was open?

A. No, I think not. The Stein scrip was bought some time early in the summer of 1902 and sent out to Steunenbergh to place in the Basin and he reported that he made various unsuccessful efforts to place it, first in the Basin and then in the Crooked River and finally in 6—4.

By Mr. BUNDY.—That Stein scrip was bought in your name was it? A. Yes, sir.

By Mr. GORDON.—Mr. Palmer bought that scrip, did he?

(Deposition of James T. Barber.)

A. He arranged the deal as I remember it.

Q. And it was paid for from this office?

A. Yes, sir, he bought it on the trip east, he stopped in St. Paul and saw Mr. Phipps as I remember it, and got in communication with Mr. Phipps through Mr. Stein and arranged for the purchase of it.

Q. Are there any letters in the files of the Barber Lumber Company or anywhere that you know of directing that, this land be, that this scrip be placed in *the either* Boise Basin or the Crooked river lands?

A. I presume there are, I don't know of any, I don't think of any, it was our understanding with the Governor that we were to furnish him scrip for that purpose, we bought scrip and sent it out to him for that purpose.

Q. The scrip was sent from Palmer to Steunenberg?

A. I think it was; Palmer was here to talk with him about it about the time just prior to the time he bought it. I think he closed the deal with Mr. Stein in St. Paul on his way back to Spokane from here. He probably instructed Steunenberg when he sent it to him, but only in a general way.

JAMES T. BARBER, recalled, testified as follows:

(By Mr. GORDON.)

Q. Mr. Barber, in a letter dated August 15-02 addressed to you, by A. E. Palmer, the first paragraph of the second page is headed "Entries," and

(Deposition of James T. Barber.)

then I find this expression. "I enclose complete list of entries, land office, costs on all have been paid, description on the first hundred should be correct as they have been checked with land office receipt." Do you know where that list of entries is?

A. No, sir.

Q. Do you remember ever having had the list of entries?

A. I don't remember anything about the list of entries, I paid very little attention to the details of the land matters at that time. Mr. Moon looked after the keeping of the records of the land purchases and I tried to provide the money.

By Mr. MOON.—That list was turned over to me and was one I kept until I turned over the deeds.

By Mr. BARBER.—All the details of the land part of the business Mr. Moon looked after?

By Mr. GORDON.—Mr. Moon, you have heard the letter I have just read Mr. Barber concerning the list of entries in the land office. Do you know anything about the list of entries referred to Mr. Palmer?

By Mr. MOON.—I know that I had various such lists and in many cases and they were in part duplicates of other lists, and as I think I testified before these were kept until they were checked with the deeds at the time the deeds were sent out to Boise. I considered a good many of such things simply as temporary memorandums and didn't return them to the Boise office with the deeds, but probably put them in the waste basket.

(Deposition of James T. Barber.)

Q. You don't know where they are now?

A. I don't know.

Q. That is your best recollection that you destroyed them? A. Yes, sir.

Q. Mr. Moon, I find in the files of the Barber Lumber Company a letter dated April 12-03, directed to Messrs. Barber and Moon, Eau Claire, Wisconsin, and signed Wm. Sweet. I ask you if you remember receiving that letter from Mr. Sweet?

A. I do not remember it particularly.

By Mr. BARBER.—I remember the letter.

By Mr. MOON.—I have a recollection of some letter coming from Mr. Sweet.

By Mr. GORDON.—Do you remember having seen the letter, Mr. Barber?

By Mr. BARBER.—What is the date of it?

By Mr. GORDON.—April 12-03.

By Mr. BUNDY.—That was the first you ever heard of him? A. Yes, sir.

By Mr. GORDON.—On the first page of this letter it says: "We have just looked over an agreement between you and Governor Steunenberg, dated a year and a month ago today." And then on page 5 he says: "Is the Governor under any obligation to you, if so what for? If you are out of money on the 12 claims held up, it ought to have come out of Kinkaid and Wells."

Q. At that time did you hold the receiver's receipts of the 12 claims that were held up, that were referred to here by Mr. Sweet?

A. I don't know.

(Deposition of James T. Barber.)

Q. And did you ever take up with Governor Steunenberg about that time the matter of the 12 claims spoken of by Mr. Sweet?

A. I submitted that letter to Governor Steunenberg and he said some statements in it were not as he understood, he said that he would answer the letter. I replied to the letter later on. I have forgotten just what I said but there was no reference; I don't remember anything about the question of claims or anything of that kind.

Q. Mr. Barber, I find in the files of the Barber Lumber Company a part of a letter signed Frank Steunenberg and the page I have is number 2. It reads as follows:

There is nothing to indicate the date of it, except text of the letter when the transaction would show about what time the letter referred to. The first word on the top line of the page is "great" and there is a paragraph which reads as follows: "I think it desirable to place the Basin deeds on record. Kinkaid want to replace about 20 with new ones. If you will send all the deeds to Mr. Borah, I will undertake to have the substitution made at once in order that the filing can be taken soon. If this procedure does not meet your approval, notify me at once. The old parties will want the old deeds returned to them, upon executing the new ones, Am still hammering away at Caston, endeavoring to scale him down, am afraid it is hopeless. Scofield's

(Deposition of James T. Barber.)

departure has had a quieting effect in general. Caston is a hard one.

Yours truly,

FRANK STEUNENBERG."

Q. Do you remember receiving that letter, Mr. Barber? A. I have no recollection of it.

Q. Do you remember having seen the letter before? A. No, sir.

By Mr. GORDON.—This letter is on the letter-head of the Idan-ha Hotel paper, Boise, Idaho.

(By Mr. GORDON.)

Q. Mr. Moon, in your letter to Mr. Palmer, dated March 13-02, I find on page 1172 of the D. R. Moon letter-press book, I find this statement. "The writer will send you a separate note at to where to procure funds." Have you a carbon copy or letter-press copy of that separate note you sent Mr. Palmer?

A. No, sir, I think I neglected to send it.

Q. Then in the next paragraph of the same letter it reads as follows: "At the time of checking up and auditing the matter of the investment to Sweet you will also audit the investment of Steunenbergs and ascertain the amount he has invested in these enterprises on the same basis and in the same manner you passed on Sweet's account." Did Mr. Palmer ever send you the account of Steunenbergs as he had audited it?

A. I think he advised us that; I have no distinct recollection of it; but I think that he advised us that Steunenbergs had put in \$3,750.00.

(Deposition of James T. Barber.)

By Mr. BUNDY.—He didn't have a hell of a lot to audit, only \$3,750, and he got that on Sweet's note.

(By Mr. GORDON.)

Q. At the time that the contract was entered into with Sweet by Steunenberg and the day you wrote this letter, Mr. Moon, did you understand then, that all that Sweet and Steunenberg had was receiver's receipts? A. Yes, sir.

Q. And your instructions were that Palmer should pay for the title as soon as Steunenberg got these receiver's receipts in the hands of himself or Palmer, is that correct?

A. As I remember it, Steunenberg told us that he had these receipts and our instructions to Palmer was to go and investigate to see if he had, and he did go and investigate and advised us later on that he had sent receipts, check off receipts for a great number of claims and drawn us for the money, based upon that investigation or after he had made that investigation.

Q. And you forwarded the money to pay for those deeds were taken?

A. We forwarded the money to buy out Sweet just as we agreed to do. He had bought the claims as he told us and taken these final receipts; I don't remember particularly about the deed, but as I remember it he was to give the deed when he was paid in full for the claim, and in the meantime he had the receipt.

By Mr. BUNDY.—He was to pay in full when?

(Deposition of James T. Barber.)

By Mr. MOON.—When patents were issued.

(By Mr. GORDON.)

Q. What did you mean by this expression in the letter last referred to? “When you thus have checked over the account of Sweet and determined it to be correct and that his investment does exceed \$22,000.00 and that he has title in him to 6400 acres and has title practically perfected to substantially five thousand acres more and when all matters we have enumerated are properly transferred from him to us, advise us of the amount recorded and we will send you a draft therefor.”

By Mr. MOON.—What particular part of that do you wish?

By Mr. GORDON.—With reference to the title being practically perfected to substantially five thousand acres more, you referred in there to Sweet.

A. As I remember it, there were some, I have forgotten definitely, it seems as I remember it now; my impression is that he told us that he had bought, I was thinking he had bought some entire.

By Mr. BUNDY.—He says that there was 6400 acres.

A. He bought entire and the balance he made partial payments on.

(By Mr. GORDON.)

Q. Had you taken final receipts on the additional five thousand acres that was not represented to you at that time?

A. I think it was, I don't remember distinctly, it is a good while ago.

(Deposition of James T. Barber.)

Q. Was that the first proposition of Steunenberg that he had title to five thousand acres or sixty-four hundred acres and that he could secure twenty thousand acres more?

A. I know he expected to buy a lot more, but we were not supposed to pay for anything until he could buy it outright.

Q. That only had reference then to the 6400 acres?

A. That I have not clear in my mind now, but he had final receipts of everything that he expected us to pay for in the Sweet deal.

Q. That \$30,000.00 was the Sweet deal?

A. Yes, and he put in some \$22,000.00 as I remember it and we were to pay him \$33,000.00, fifty per cent increase over what he had invested.

Q. But there was no representation that Steunenberg at that time was selling more than the 64,000 acres, was there?

A. I think not, I don't remember about that though.

By Mr. BUNDY.—What he represented was, was that he had 6400 acres bought and paid for and he also represented that he had 5000 acres under contract.

(By Mr. GORDON.)

Q. Mr. Moon, in the letter written April 5-02 by A. E. Palmer to you from Spokane, Washington, I read this expression: "Of course Steunenberg will do the wire pulling."

By Mr. MOON.—That had reference to, some

(Deposition of James T. Barber.)

State lands that were to be sold along the Payette.

Q. Do you understand what wire pulling was necessary to get a bid in on these lands?

A. No, sir, I suppose that he meant that Mr. Steunenbergh had some influence and friend, that is all I took it to mean.

(By Mr. BUNDY.)

Q. You never bid in State lands in the Payette or elsewhere, did you?

A. No, not in Idaho.

Q. In May, 1902, where did you keep the letterpress copies of the letters you sent?

A. In the D. R. Moon copy-book.

Q. Mr. Moon, in a letter, dated May 13, -02, addressed to S. G. Moon and signed A. E. Palmer of Spokane, Washington, in the second paragraph of the letter appears the following:

“There is a lot of fine timber in towns 6 and 7 range 4 east which I think can be located by scrip, that is why I wired asking when you are coming west.” And marked on the letter is “Answered May 21, 1902” by rubber stamp.

A. I have no answer stamp.

By Mr. BARBER.—That is my answer stamp. I may have answered the letter.

By Mr. BARBER.—When does that say answered?

By Mr. GORDON.—May 21-02.

By Mr. GORDON.—That is the one I read this morning as 661A. Did he explain that letter that the party is recalled June 12?

(Deposition of James T. Barber.)

By Mr. BUNDY.—No, that is all ready in.

By Mr. GORDON.—Mr. Moon, did you ever go to Washington or New York to meet any parties with a view to trying to get these claims that were held up through? A. No, sir.

Q. Mr. Moon, in some letter you have written here you have referred to a number of deeds taken in the name of Mr. Palmer having been conveyed to the Barber Lumber Company; do you remember that whenever Mr. Palmer received a deed from Steunenberg he made a deed, that is the deeds were taken while Mr. Palmer was looking after it in his name from the entrymen and sent by Mr. Steunenberg to him signed?

A. He forwarded the deed from the entryman to us. He made a deed to the Barber Lumber Company running from him.

Q. Do you remember how many deeds were taken that way or how many were sent that were made that way? A. I don't remember.

Q. Approximately, a dozen or twenty?

A. Oh, yes, I can't remember, the records will show. It was all the deeds, I think of the Basin deeds were taken that way during the year of 1902, at the time he was looking after our interest.

Q. Well, these deeds that were conveyed by Palmer to you were made by Palmer conveying the entries to the Barber Lumber Company; they were never recorded but subsequently all the property that had been acquired by Palmer in the interest of the Barber Lumber Company were conveyed to the Bar-

(Deposition of James T. Barber.)

ber Lumber Company by two deeds in the latter part of 1905 or the first part of 1906.

A. I had forgotten that if that is the case. I do know that we had to get a new deed from Palmer on account of some of the deeds from the entrymen having been changed after he had deeded to us.

Q. And in the letter you directed to Steunenbergh when they wrote these deeds not to put any date in later than June-03?

A. I remember having written such a letter, yes.

Q. What was the reason of it?

A. That was because he had already deeded to us; none of those deeds to the Barber Lumber Company from Palmer individually were recorded.

A. That was evidently an arrangement made out there, if I ever knew about it, I had forgotten, I probably did but forgot. Every time he sent deeds he sent us his deeds.

(By Mr. GORDON to Mr. BARBER.)

Q. Mr. Barber, in a letter dated December 29-02, written by James T. Barber, President, to Hon. Frank Steunenbergh, Caldwell, Idaho, page 48 (forty-eight) of the letter copy-book of the Barber Lumber Company, I find this expression:

“In making the deal with Mr. Kinkaid have the deeds run to A. E. Palmer the same as the other deeds you have been buying for us.” What deal with Kinkaid did that refer to?

A. That referred to the Crooked river claims that Mr. Kinkaid has represented he controlled and was selling to Mr. Steunenbergh as I recollect it.

(Deposition of James T. Barber.)

Q. Then you bought the Crooked river claims and 6-4 both from Kinkaid?

A. No, sir, I don't think Kinkaid had anything to do with the 6-4 claims. I am not certain about that. This letter was written on December 29 and no purchases were made until the following February, in the meantime Palmer had gone to Canada to live. In the claims referred to, the claims were taken in the name of Horace S. Rand, a stockholder in the company.

Q. Now, Mr. Barber, on page 51 of the same book I find a letter dated January 6-03 written by James T. Barber, President, to Hon. Frank Steunenberg, Caldwell, Idaho. "We of course are much interested in learning what action you took in the matter with Kinkaid, and also and more particularly with reference to securing options on our proposed mill-site. Kindly keep us informed on everything you do, promptly."

Did Mr. Kinkaid have anything to do with purchasing the millsite property? A. No, sir.

Q. Mr. Barber, do you remember a letter written you by Governor Steunenberg in which he said: "If I take titles to claims in Crooked river, where am I to get the money, I may need a bunch on short notice." A. That has a familiar sound.

By Mr. BUNDY.—That was offered in evidence here.

A. I don't remember the details.

By Mr. GORDON.—Prior to that letter had you not had any talk or understanding with Steunenberg

(Deposition of James T. Barber.)

where he was to get the money to pay for them?

A. I don't remember the details of that, I should judge by the letter that we had not.

Q. Mr. Barber, in the letter written you January 21-03, but it is dated 02, the receiving stamp shows it was received January 26-03, signed Frank Steunenberg that letter uses this expression:

"I asked Downs concerning the sources of his information as to the north fork and he told me he had investigated every foot of the stream himself and talked with many of the men who had worked on the different drives."

Did you know who this Mr. Downs was at that time?

A. Yes, sir, I think I wrote Mr. Steunenberg, I think the letter is in evidence, to have Mr. Downs find out what information he could.

(By Mr. BUNDY.)

Q. Downs had been up in the timber with you before that? A. Yes, sir.

By Mr. BUNDY.—That was your first trip out there in September -02?

A. Yes, sir, my first trip out.

By Mr. GORDON.—Mr. Barber, do you know when you first employed Mr. Borah at an annual retainer?

A. I couldn't give you the date, do you know, Bundy?

(Deposition of James T. Barber.)

By Mr. BUNDY.—First of January, 1903, he was employed some time in January, the books show it.

By Mr. GORDON.—In a letter dated January 26, from the stamp showing that letter was received Jan. 30-03, written by Steunenbergh, Caldwell, Idaho, and addressed to you, I find this expression:

“Regarding the river franchise matter, the situation in my judgment is some better. Mr. Borah has spent some money in order to control the situation. He consulted with me first and I think the moves he has made *altimely* and judicious.”

Do you know what that money was spent for by Mr. Borah?

A. That would indicate in assisting us in getting franchises.

Q. Do you know to whom he paid it or spent it?

By Mr. BUNDY.—Not to anyone.

A. He may have bought some drinks for the legislators; they were in session at the time. At any rate we didn't get any franchises. They passed a law prohibiting exclusive franchises.

By Mr. BUNDY.—I suppose Borah has spent some money looking it up?

A. I presume so, I don't know.

By Mr. GORDON.—Mr. Barber, in the letter found on page 63 of the Barber Lumber Company's

(Deposition of James T. Barber.)

letter-press book, dated January 22-03, signed James T. Barber, President, to Hon. Frank Steunenberg, Boise, Idaho. "In the matter of Kinkaid lands we would say that if you are satisfied that Downs has estimated them fairly and a point can be made by taking in eight or ten of them without waiting for Taylor, you are at liberty to do so, but have Taylor estimate them as soon as possible."

Do you know what lands you have reference to there? A. Crooked river lands.

Q. And where did you get Downs' estimate?

A. Kinkaid must have gotten Downs' estimate from the entrymen.